



# Federal Register

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**WHEN:** Tuesday, August 12, 2008  
9:00 a.m.–12:30 p.m.

**WHERE:** Office of the Federal Register  
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Washington, DC 20002

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# Contents

## Federal Register

Vol. 73, No. 141

Tuesday, July 22, 2008

### Agriculture Department

*See* Forest Service

*See* Natural Resources Conservation Service

### Centers for Disease Control and Prevention

#### NOTICES

Meetings:

Disease, Disability, and Injury Prevention and Control  
Special Emphasis Panel, 42576–42577

### Centers for Medicare & Medicaid Services

#### NOTICES

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 42577–42579

### Coast Guard

#### RULES

Annual Kennewick, Washington, Columbia Unlimited  
Hydroplane Races, 42526

Celebrate Milwaukie Fireworks Display, Portland, OR,  
42526

Safety Zones:

Festival of Sail San Francisco, San Francisco, CA.,  
42526–42529

#### NOTICES

Meetings:

Houston / Galveston Navigation Safety Advisory  
Committee, 42585–42586

### Commerce Department

*See* Industry and Security Bureau

*See* International Trade Administration

*See* National Oceanic and Atmospheric Administration

### Education Department

#### NOTICES

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 42552

### Election Assistance Commission

#### NOTICES

Meetings; Sunshine Act, 42552–42553

### Employment and Training Administration

#### NOTICES

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 42597–42598

### Energy Department

*See* Federal Energy Regulatory Commission

*See* Western Area Power Administration

### Environmental Protection Agency

#### RULES

National Emission Standards for Hazardous Air Pollutants  
for Semiconductor Manufacturing, 42529–42532

National Oil and Hazardous Substances Pollution  
Contingency Plan; National Priorities List, 42533–  
42536

#### PROPOSED RULES

National Oil and Hazardous Substances Pollution  
Contingency Plan:  
National Priorities List, 42539–42540

#### NOTICES

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 42570–42571

Draft NPDES General Permits; Availability; Massachusetts  
And New Hampshire:

Dewatering General Permit, 42571–42573

raft Demonstration of Alternative Asbestos Control Method  
Demolition, 42573–42574

### Farm Credit Administration

#### RULES

Eligibilities and Scopes of Financing; Processing and  
Marketing; Effective Dates, 42517

### Federal Aviation Administration

#### RULES

Standard Instrument Approach Procedures, and Takeoff  
Minimums and Obstacle Departure Procedures;  
Miscellaneous Amendments, 42520–42522

#### NOTICES

Meetings:

Cancellation; Executive Committee of the Aviation  
Rulemaking Advisory, 42650–42651

### Federal Energy Regulatory Commission

#### NOTICES

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 42553–42555

Application:

Columbia Gas Transmission Corporation, 42555

Applications:

Coastal Power, Inc., 42555–42556

PPL Montana, LLC, 42556–42557

Tennessee Gas Pipeline Co., 42557

Whitman River Dam, Inc., 42557–42558

Blanket Authorization:

Arlington Wind Power Project LLC, 42558

Cloud County Wind Farm, 42558–42559

Green Energy Partners LLC, 42559

Huntrise Energy Fund LLC, 42559–42560

Rail Splitter Wind Farm LLC, 42560

Red Hills Wind Project, L.L.C., 42560

Wheat Field Wind Power Project LLC, 42560–42561

Combined Notice of Filings, 42561–42562

Eastern Shore Natural Gas Company:

Request Under Blanket Authorization, 42562

Environmental Impact Statements; Availability, etc.:

Floridian Natural Gas Storage Company, LLC, 42562–  
42563

Filings:

North American Electric Reliability Corp., 42563

Preliminary Permit Applications Accepted for Filing,

Soliciting Comment, Motions to Intervene, and

Competing Applications:

FFP Ohio River 3, LLC et al., 42563–42564

FFP Ohio River 5, LLC et al., 42564

Self-Certification of Qualifying Status of a Cogeneration  
Facility, 42564

Technical Conference:

Columbia Gas Transmission Corp., 42565

**Federal Housing Finance Board****NOTICES**

Meetings; Sunshine Act, 42574

**Federal Reserve System****NOTICES**

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies, 42574

Formations of, Acquisitions by, and Mergers of Bank Holding Companies:

WebFive, MHC and WebFive Financial Services, Inc. et al., 42574–42575

**Fish and Wildlife Service****NOTICES**

Issuance of Permits, 42592–42593

Receipt of an Application for an Incidental Take Permit for Commercial Construction in Charlotte County, Florida, 42593

Receipt of Applications for Permit, 42593–42594

**Forest Service****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 42542–42543

Meetings:

Information on Proposed Rule for Management of Roadless Areas in Colorado, 42543

**Health and Human Services Department**

*See* Centers for Disease Control and Prevention

*See* Centers for Medicare & Medicaid Services

*See* Health Resources and Services Administration

*See* National Institutes of Health

*See* Substance Abuse and Mental Health Services Administration

**NOTICES**

Findings of Scientific Misconduct, 42575–42576

**Health Resources and Services Administration****NOTICES**

Advisory Commission of Childhood Vaccines:

Requests for Nominations for Voting Members, 42579

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 42579–42583

**Homeland Security Department**

*See* Coast Guard

*See* U.S. Citizenship and Immigration Services

*See* U.S. Customs and Border Protection

**NOTICES**

Meetings:

Critical Infrastructure Partnership Advisory Council, 42585

**Housing and Urban Development Department****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 42591–42592

**Industry and Security Bureau****NOTICES**

Action Affecting Export Privileges:

Ankair, et al., 42544–42545

**Interior Department**

*See* Fish and Wildlife Service

**Internal Revenue Service****RULES**

Farmer and Fisherman Income Averaging, 42522–42526

**PROPOSED RULES**

Farmer and Fisherman Income Averaging, 42538–42539

**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 42651–42658

Meetings:

Ad Hoc IRS Forms and Publications/Language Services

Issue Committee of the Taxpayer, 42658

Area 1 Taxpayer Advocacy Panel, 42658

Area 2 Taxpayer Advocacy Panel, 42658–42659

Area 3 Taxpayer Advocacy Panel, 42659

Area 4 Taxpayer Advocacy Panel, 42659

Area 5 Taxpayer Advocacy Panel, 42659

Area 6 Taxpayer Advocacy Panel, 42660

Area 7 Taxpayer Advocacy Panel, 42660

Joint Committee of the Taxpayer Advocacy Panel, 42660

Small Business/Self Employed - Taxpayer Burden

Reduction Issue Committee of the Taxpayer

Advocacy Panel, 42660–42661

Taxpayer Advocacy Panel Earned Income Tax Credit

Issue Committee, 42661

Taxpayer Advocacy Panel Volunteer Income Tax

Assistance (VITA) Issue Committee, 42661

Taxpayer Assistance Center Committee of the Taxpayer

Advocacy Panel, 42661

Wage & Investment Reducing Taxpayer Burden (Notices)

Issue Committee of the Taxpayer, 42662

**International Trade Administration****NOTICES**

Amended Final Affirmative Countervailing Duty

Determinations and Countervailing Duty Orders:

Circular Welded Carbon Quality Steel Pipe from People's Republic of China, 42545–42547

Antidumping Duty Orders:

Circular Welded Carbon Quality Steel Pipe from People's Republic of China, 42547–42549

Applications for Duty-Free Entry of Scientific Instruments, 42549

Extensions of Time Limits for Final Results of Antidumping

Duty Administrative Reviews:

Circular Welded Carbon Steel Pipes and Tubes from Thailand, 42549–42550

Partial Rescissions of Antidumping Duty Administrative

Reviews:

Certain Activated Carbon from People's Republic of China, 42550–42551

**International Trade Commission****NOTICES**

Revised Schedules for Subject Investigations:

Certain Off-The-Road Tires From China, 42594

**Justice Department**

*See* National Institute of Corrections

**NOTICES**

Lodging of Consent Decrees Under the Safe Drinking Water Act:

United States v. City of Middletown, NY; Civil Action No. 08 Civ. 6369 (SCR) (LMS), 42594–42595

**Labor Department**

*See* Employment and Training Administration

*See* Mine Safety and Health Administration

**Millennium Challenge Corporation****NOTICES**

Entering into a Compact with the Government of Burkina Faso, 42601–42626

**Mine Safety and Health Administration****NOTICES**

Petitions for Modification, 42598–42601

**National Institute of Corrections****NOTICES**

Solicitation for a Cooperative Agreement to Develop a Series of Papers on Parole, 42595–42597

**National Institutes of Health****NOTICES**

Meetings:  
Special Emphasis Panels—  
Center for Scientific Review; DNA Replication, Repair and Transcription, 42583–42584  
National Eye Institute; Institutional Training Grant Applications, 42584

**National Oceanic and Atmospheric Administration****RULES**

Fisheries Off West Coast States:  
Modifications of West Coast Commercial Salmon Fishery; (Inseason Action 3 and 4), 42536–42537

**PROPOSED RULES**

Fisheries in the Western Pacific:  
Western Pacific Pelagic Fisheries; Control Date; Hawaii Pelagic Charter Fishery, 42540–42541

**NOTICES**

Issuance of Permits:  
Marine Mammals; (File No. 10045), 42551  
Marine Mammals; (File No. 13392), 42551–42552

**National Science Foundation****NOTICES**

Privacy Act; Systems of Records, 42626–42627

**Natural Resources Conservation Service****NOTICES**

Determination; Secretary of Agriculture:  
Primary Purpose of Pennsylvania's Upper Makefield Township Riparian Restoration and Preservation Grant Program, 42543–42544

**Nuclear Regulatory Commission****NOTICES**

Draft Regulatory Guide; Issuance, Availability, 42627–42628  
Intent To Prepare An Environmental Impact Statement:  
Prairie Island Nuclear Generating Plant, Units 1 And 2, 42628–42630

Meetings:

Advisory Committee On Reactor Safeguards; CRS Subcommittee On ESBWR, 42630

Meetings; Sunshine Act, 42630–42631

**Railroad Retirement Board****NOTICES**

Meetings:  
Actuarial Advisory Committee with Respect to the Railroad Retirement Account, 42631

**Securities and Exchange Commission****NOTICES**

Filings:  
Options Price Reporting Authority, 42631–42634

Self-Regulatory Organizations; Proposed Rule Changes:  
Chicago Board Options Exchange, Inc., 42634–42638  
International Securities Exchange, LLC, 42638–42640  
NYSE Arca, Inc., 42640–42641  
Philadelphia Stock Exchange, Inc., 42641–42645  
The Depository Trust Co., 42645–42646  
The Options Clearing Corporation, 42646–42648  
Suspension of trading order:  
Typhoon Touch Technologies, Inc., 42648

**Small Business Administration****RULES**

Small Business Size Standards:  
Fuel Oil Dealers Industries, 42517–42520

**NOTICES**

Disaster Declarations:  
Iowa, 42648  
Small Business Size Standards: Waiver of the Nonmanufacturer Rule, 42648–42650

**State Department****NOTICES**

Culturally Significant Objects Imported for Exhibition Determinations:  
Captured Emotions; Baroque Painting in Bologna 1575-1725, 42650  
“Transcendent Art; Icons from Yaroslavl, Russia”, 42650

**Substance Abuse and Mental Health Services Administration****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 42584–42585

**Surface Transportation Board****NOTICES**

Abandonment Exemptions:  
Sault Ste. Marie Bridge Co.; Dickinson County, MI, 42651  
Senior Executive Service Performance Review Board, 42651

**Transportation Department**

See Federal Aviation Administration  
See Surface Transportation Board

**Treasury Department**

See Internal Revenue Service  
See United States Mint

**U.S. Citizenship and Immigration Services****NOTICES**

Domestic Violence Guidance Pamphlet for K Nonimmigrants, 42586–42590

**U.S. Customs and Border Protection****NOTICES**

Accreditation and Approval of Camin Cargo Control, Inc., 42591  
Accreditation and Approval of Intertek Usa, Inc., 42591

**United States Mint****NOTICES**

Privacy Act; Systems of Records, 42662–42670

**Western Area Power Administration****NOTICES**

Washoe Project-Rate Order No. Wapa-136, 42565–42570

**Reader Aids**

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to <http://listserv.access.gpo.gov> and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

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**CFR PARTS AFFECTED IN THIS ISSUE**

---

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

**12 CFR**

613.....42517

**13 CFR**

121.....42517

**14 CFR**

97.....42520

**26 CFR**

1.....42522

**Proposed Rules:**

1.....42538

**33 CFR**

100.....42526

165 (2 documents) .....42526

**40 CFR**

63.....42529

300.....42533

**Proposed Rules:**

300.....42539

**50 CFR**

660.....42536

**Proposed Rules:**

665.....42540

# Rules and Regulations

Federal Register

Vol. 73, No. 141

Tuesday, July 22, 2008

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 613

RIN 3052-AC33

#### Eligibility and Scope of Financing; Processing and Marketing; Effective Date

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of effective date.

**SUMMARY:** The Farm Credit Administration (FCA or Agency), through the FCA Board (Board), issued a final rule under part 613 on May 28, 2008 (73 FR 30460) amending our regulation governing financing of processing and marketing operations by Farm Credit System institutions under titles I and II of the Farm Credit Act of 1971, as amended. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is July 17, 2008.

**DATES:** *Effective Date:* The regulation amending 12 CFR part 613 published on May 28, 2008 (73 FR 30460) is effective July 17, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Barry Mardock, Associate Director, Office of Regulatory Policy, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4456, TTY (703) 883-4434, or

Michael J. Duffy, Senior Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, Virginia 22102-5090, (952) 854-7151, TTY (952) 854-2239, or

Howard I. Rubin, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4029, TTY (703) 883-4020.

(12 U.S.C. 2252(a)(9) and (10))

Dated: July 17, 2008.

**Roland E. Smith,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. E8-16772 Filed 7-21-08; 8:45 am]

**BILLING CODE 6705-01-P**

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Parts 121

RIN 3245-AF67

#### Small Business Size Standards: Fuel Oil Dealers Industries

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Final rule.

**SUMMARY:** This rule revises the small business size standard for the Heating Oil Dealers industry (North American Industry Classification System (NAICS) code 454311) from \$11.5 million in average annual receipts to 50 employees, and the size standard for the Liquefied Petroleum Gas (Bottled Gas) Dealers industry (NAICS code 454312) from \$6.5 million in average annual receipts (AAR) to 50 employees. These revised size standards stabilize the definition of the size of a small business in these industries based on a review of the latest available data on industry characteristics and other relevant information.

**DATES:** *Effective Date:* This rule is effective on August 21, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Diane Heal, Office of Size Standards, (202) 205-6618 or [sizestandards@sba.gov](mailto:sizestandards@sba.gov).

**SUPPLEMENTARY INFORMATION:** On October 31, 2007, SBA published in the **Federal Register** (72 FR 61574) a proposed change in the measure of the small business size standards for the Heating Oil Dealers from \$11.5 million in AAR to 50 employees, and for the Liquefied Petroleum Gas (LPG) (bottled gas) Dealers from \$6.5 million in AAR to 50 employees. Based on SBA's evaluation of the public comments received to its October 31, 2007 proposed rule and on SBA's size standards analysis described in the proposed rule, SBA concludes that the proposed change to 50 employees is appropriate. Accordingly, this final rule adopts the proposed size standard of 50

employees for the heating oil and LPG dealers industries.

#### Evaluation of Comments

In response to its proposed rule, SBA received comments from one individual and three advocacy groups for the affected industries.

One commenter recommended that SBA use an annual volumetric delivery to measure a heating oil dealer's size instead of revenues or employees. The commenter believes that not applying the same standard for all industries could potentially fail the disparate treatment justification, result in equal protection clause challenges, and encourage employment reductions by some businesses to remain an eligible small business for reduced hazardous material transportation registration fees.

SBA is concerned that using a volumetric delivery measure would require heating oil dealers to keep separate records for size determination purposes. Also, that type of information is not independently verifiable in the case of an SBA size determination. The only data collected by government agencies regarding heating oil dealers are average weekly costs obtained from a random survey by state energy agencies and provided to the U.S. Department of Energy. Businesses in other industries where SBA uses size measures other than receipts or employees (e.g., megawatt hours for electric utilities, assets for financial institutions, and barrels of refined petroleum products for petroleum refineries) are legally required to report these data using those measures to an appropriate Federal agency. The use of volumetric delivery measure would also fail to capture other activities of the business and affiliation with other businesses in determining size. Because of these concerns, SBA believes that number of employees is a better measure of size than volumetric delivery and, therefore, does not adopt this recommendation.

Comments from three advocacy groups for these two industries supported the conversion of the size measure from average annual receipts to average number of employees. Two of these advocacy groups, however, recommended that the size standard for heating oil dealers be increased from the proposed 50 employees to 100 employees. They believe that heating oil dealers with up to 100 employees are



small given the labor-intensive operations of heating oil dealers and the need for multiple branch offices to serve their customers. However, these two groups did not provide any evidence or statistical data to support their assertion.

The purpose of this rule is to convert the size standard to employees from the current measure in receipts, not increase the size standard. As explained in the proposed rule, the current size standard of \$11.5 million for the heating oil dealers industry converts to 50 employees. Furthermore, at that size, more than 90 percent of heating oil dealers are classified as small and they account for approximately 53 percent of total industry sales. SBA concludes that a 50-employee size standard for heating oil dealers is a viable size standard and, therefore, declines to adopt the recommended 100-employee size standard. SBA will give further consideration to the heating oil and LPG dealers' size standards when it receives more current industry data from the U.S. Bureau of the Census in 2009.

**Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)**

For purposes of Executive Order 12866, the Office of Management and Budget (OMB) has determined that this rule is not a significant regulatory action. In addition, this rule is not a major rule under the Congressional Review Act, 5 U.S.C. 800.

For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that Order.

For purposes of Executive Order 13132, SBA has determined that this rule does not have any federalism implications warranting the preparation of a federalism assessment.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule does not impose new reporting or recordkeeping requirements. Although the measure of size changes from receipts to number of employees, business concerns must maintain records on employees (such as payroll records) in the course of business. Providing information to SBA on the number of employees would occur only as a result of a request for a size determination related to an application for small business assistance.

**Final Regulatory Flexibility Analysis**

Under the Regulatory Flexibility Act, this rule may have a significant impact on a substantial number of small entities in the heating oil and LPG dealers industries. This rule may affect the eligibility of heating oil and LPG dealers seeking SBA 7(a) Loans, SBA Economic Impact Disaster Loans, reduced U.S. Department of Transportation's Hazardous Materials (HAZMAT) Registration Program fees, and assistance from other Federal small business programs.

Immediately below, SBA sets forth a final regulatory flexibility analysis of this final rule addressing the following questions: (1) What is the reason for this action, (2) what are the objectives and legal basis for the rule, (3) what are SBA's description and estimate of the number of small entities to which the rule will apply, (4) what are the significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis in the October 31, 2005 proposed rule, (5) will this rule impose any additional reporting or recordkeeping requirements on small business entities, (6) what are the relevant Federal rules which may duplicate, overlap or conflict with the rule, and (7) what alternatives did SBA consider?

1. *What is the reason for this action?* Significant increases and fluctuations in crude oil costs render a receipts-based size standard for the heating oil and LPG dealers industries an unsuitable measure of a dealer's level of business activity. Converting the existing receipts-based size standard to an employee-based size standard provides a more accurate measure of the operations of a heating oil dealer and LPG dealer, ensuring a more stable small business designation to dealers of these fuel products.

2. *What are the objectives and legal basis for the rule?* The purpose of this rule is to convert the existing receipts-based size standard to an employee-based size standard to provide a more stable designation and accurate measure of the operations of a heating oil dealer and LPG dealer. Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) gives SBA the authority to establish and change size standards. Under the current measure, heating oil or LPG dealers are abruptly exceeding the size standard due to large and unpredictable increases in crude oil costs, even though they continue to deliver the same quantity of fuel products. This occurs because dealers pass through the increased costs to their customers in the form of higher prices. Therefore,

dealers' receipts are considerably increased through outside forces.

3. *What are SBA's description and estimate of the number of small entities to which the rule will apply?* Based on data from the SBA's special tabulation of the U.S. Bureau of the Census's 2002 Economic Census, there were 3,729 small heating oil dealers and 2,005 small LPG dealers under the existing size standards. Taking into account historical trends of residential heating oil and propane prices between 2002 and 2007, 349 heating oil dealers and 269 LPG dealers may exceed the existing size standard due solely to higher receipts generated by higher prices. Establishing the employee-based size standard for these two industries will restore the small business eligibility of those dealers.

4. *What are the significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis in the October 31, 2007, proposed rule?* The public raised no significant issues in response to the Initial Regulatory Flexibility Analysis in the October 31, 2007, proposed rule. There were four commenters to the proposed rule. Three commenters supported the conversion of the size standard from receipts-based to employee-based. SBA has summarized the comments above in the supplemental information.

5. *Will this rule impose any additional reporting or recordkeeping requirements on small business entities?* Establishing an employee-based size standard for heating oil and LPG dealers does not impose any additional reporting, recordkeeping, or compliance requirements on small entities. Although the measure of size changes from receipts to number of employees, business concerns must maintain records on employees in the course of business. In response to a request for a size determination related to an application for small business assistance, small businesses must provide information on receipts or number of employees. This final rule does not create a new requirement to provide size information, only what type of information that is requested in reviewing a business concern's size.

Section 212 of the Small Business Regulatory Fairness Act (Pub. L. 104–121) requires an agency to publish one or more “small entity compliance guides” to assist small entities in complying with its rules. Although there are not new compliance requirements associated with small business size standards, there may be some small businesses not acquainted with small business size standards and their application to Federal

procurement and other Federal government programs. Therefore, SBA has published both its "Small Business Size Regulations" and its "Guide to Size Standards" to provide this assistance. Both of these are available on SBA's Web site at <http://www.sba.gov/size> by selecting on the right hand side of the page "Size Regulations" and "Guide to Size Standards."

6. *What are the relevant Federal rules that may duplicate, overlap, or conflict with the rule?* This rule does not overlap with other Federal rules that use SBA's size standards to define a small business. Under Section 3(a)(2)(C) of the Small Business Act, 15 U.S.C. 632(a)(2)(c), unless specifically authorized by statute, Federal agencies must use SBA's size standards to define a small business. The Federal Acquisition Regulation (FAR), Part 19, governs Federal procurement and the use of the various available small business programs. All Federal agencies must follow FAR Part 19 in their procurement activities, in the absence of statutory authority to do otherwise. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988–57991, dated November 24, 1995). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

Other Federal agencies also may use SBA size standards for a variety of regulatory and program purposes. If such a case exists where an SBA size

standard is not appropriate, an agency may establish its own size standards with the approval of the SBA Administrator (see 13 CFR 121.902–903). For purposes of a regulatory flexibility analysis, agencies must consult with SBA's Office of Advocacy when developing size standards for its programs. (13 CFR 121.903(3)).

7. *What alternatives did SBA consider?* As discussed in the proposed rule, SBA considered using the already established 500-employee size standard for the manufacturing sector or the 100-employee size standard for the wholesale sector. In addition, two of the comments recommended that SBA establish a 100-employee size standard for heating oil dealers. SBA analyzed the heating oil dealers industry, and 500- and 100-employee size standards would represent significant increases to the size standard for the heating oil dealers industry. At this time, industry data do not support higher standards. At 50 employees, more than 90 percent of heating oil dealers qualify as small and they obtained more than half of total industry sales.

SBA also considered one commenter's recommended use of annual volumetric delivery as a measure for the size standard. Using this measure would require companies to keep separate records which are not verifiable for size determination purposes. The only data collected by government agencies regarding heating oil and LPG are the average weekly costs, which is performed using a random survey by state agencies which forward the data to the U.S. Department of Energy.

Therefore, there is no reliable data measuring a firm's annual volumetric delivery. Also, that measure would not capture the activities of the business outside of heating oil and LPG deliveries or the size of any affiliates. For these reasons, SBA did not adopt this recommendation.

#### List of Subjects in 13 CFR part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

■ For the reasons set forth in the preamble, SBA amends 13 CFR part 121 as follows:

#### PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

**Authority:** 15 U.S.C. 632, 634(b)(6), 636(b), 637(a), 644, and 662(5); and Pub. L. 105–135, Sec. 401, *et seq.*, 111 Stat. 2592.

■ 2. In § 121.201, in the table "Small Business Size Standards by NAICS Industry," under the heading "Sector 44–45—Retail Trade," "Subsector 454—Nonstore Retailers," revise the entries for 454311 and 454312 to read as follows:

**§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?**

#### SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
* * *	* * *	*	*
<i>Sector 44–45—Retail Trade</i>			
* * *	* * *	*	*
<i>Subsector 454—Nonstore Retailing</i>			
* * *	* * *	*	*
454311 .....	Heating Oil Dealers .....	.....	50
454312 .....	Liquefied Petroleum Gas (Bottled Gas) Dealers .....	.....	50
* * *	* * *	*	*

\* \* \* \* \*

Dated: July 15, 2008.

Jovita Carranza,

Acting Administrator.

[FR Doc. E8-16658 Filed 7-21-08; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 97

[Docket No. 30618; Amdt. No. 3278]

#### Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes, amends, suspends, or revokes STANDARD Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective July 22, 2008. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of July 22, 2008.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination—*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**Availability—**All SIAPs and Takeoff Minimums and ODPs are Available online free of charge. Visit [nfdc.faa.gov](http://nfdc.faa.gov) to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

**FOR FURTHER INFORMATION CONTACT:**

Harry J. Hodges, Flight Procedure Standards Branch (AFS-420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (*Mail Address:* P.O. Box 25082, Oklahoma City, OK 73125) *Telephone:* (405) 954-4164.

**SUPPLEMENTARY INFORMATION:** This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPs, Takeoff Minimums and/or ODPs. The complete regulators' description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260-3, 8260-4, 8260-5, 8260-15A, and 8260-15B when required by an entry on 8260-15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. This way, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the Associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its

location, the procedure, and the amendment number.

### The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPs, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

### Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 97**

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on July 11, 2008.

**James J. Ballough,**

*Director, Flight Standards Service.*

**Adoption of the Amendment**

■ Accordingly, pursuant to the authority delegated to me, Under Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

**PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES**

■ 1. The authority citation for part 97 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

\* \* \* *Effective 28 AUG 2008*

Fremont, MI, Fremont Muni, RNAV (GPS) RWY 18, Amdt 1A

Fremont, MI, Fremont Muni, RNAV (GPS) RWY 36, Amdt 1A

Marshall, MO, Marshall Memorial Muni, NDB RWY 36, Amdt 3

Marshall, MO, Marshall Memorial Muni, RNAV (GPS) RWY 18, Amdt 2

Marshall, MO, Marshall Memorial Muni, RNAV (GPS) RWY 36, Amdt 2

\* \* \* *Effective 25 SEP 2008*

Barter Island, AK, Barter Island, LRRS, NDB RWY 7, Orig

Ketchikan, AK, Ketchikan Intl, GPS-B, Orig, CANCELLED

Ketchikan, AK, Ketchikan Intl, ILS OR LOC/DME Y RWY 11, Amdt 7

Ketchikan, AK, Ketchikan Intl, LOC/DME X RWY 11, Orig

Ketchikan, AK, Ketchikan Intl, NDB/DME-A, Amdt 6B, CANCELLED

Ketchikan, AK, Ketchikan Intl, RNAV (GPS) RWY 11, Orig

Ketchikan, AK, Ketchikan Intl, RNAV (GPS)-B, Orig

Ketchikan, AK, Ketchikan Intl, Takeoff Minimums and Obstacle DP, Amdt 7

King Salmon, AK, King Salmon, ILS OR LOC/DME RWY 12, Amdt 17

King Salmon, AK, King Salmon, LOC/DME BC RWY 30, Amdt 4

King Salmon, AK, King Salmon, RNAV (GPS) RWY 12, Amdt 1

King Salmon, AK, King Salmon, RNAV (GPS) RWY 30, Amdt 1

King Salmon, AK, King Salmon, RNAV (GPS) Y RWY 29, ORIG-A, CANCELLED

King Salmon, AK, King Salmon, Takeoff Minimums and Obstacle DP, Amdt 1

King Salmon, AK, King Salmon, VOR/DME OR TACAN RWY 30, Amdt 10

King Salmon, AK, King Salmon, VOR OR TACAN RWY 12, Amdt 13

Venetie, AK, Venetie, RNAV (GPS) RWY 4, Orig-A

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, ILS OR LOC RWY 18L, Amdt 4

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, ILS OR LOC RWY 18R, ILS RWY 18R (CAT II), ILS RWY 18R (CAT III), Amdt 24

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, ILS OR LOC RWY 36L, Amdt 10

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, ILS OR LOC RWY 36R, Amdt 2

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, RNAV (GPS) RWY 18L, Amdt 1

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, RNAV (GPS) RWY 18R, Amdt 1

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, RNAV (GPS) RWY 36L, Amdt 1

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, RNAV (GPS) RWY 36R, Amdt 1

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, RNAV (GPS) Y RWY 18L, Orig, CANCELLED

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, RNAV (GPS) Y RWY 36L, Orig, CANCELLED

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, RNAV (GPS) Y RWY 36R, Orig, CANCELLED

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, RNAV (GPS) Z RWY 18L, Orig, CANCELLED

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, RNAV (GPS) Z RWY 36L, Orig, CANCELLED

Huntsville, AL, Huntsville Intl-Carl T Jones Fld, RNAV (GPS) Z RWY 36R, Orig, CANCELLED

Fort Myers, FL, Page Field, RADAR-1, Amdt 3A, CANCELLED

Orlando, FL, Orlando Sanford Intl, Takeoff Minimums and Obstacle DP, Amdt 9

Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, ILS OR LOC RWY 14, Amdt 5

Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, ILS OR LOC RWY 32, Amdt 7

Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, RNAV (GPS) RWY 4, Amdt 1

Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, RNAV (GPS) RWY 14, Amdt 2

Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, RNAV (GPS) RWY 22, Amdt 1

Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, RNAV (GPS) RWY 32, Amdt 2

Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, Takeoff Minimums and Obstacle DP, Amdt 1

Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, VOR RWY 14, Amdt 17

Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, VOR RWY 22, Amdt 10D, CANCELLED

Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, VOR RWY 32, Amdt 9

Tampa, FL, Peter O. Knight, RNAV (GPS) RWY 35, Amdt 1

Vidalia, GA, Vidalia Rgnl, RNAV (GPS) RWY 24, Amdt 1

Caldwell, ID, Caldwell Industrial, RNAV (GPS) RWY 12, Amdt 1

Caldwell, ID, Caldwell Industrial, RNAV (GPS) RWY 30, Amdt 1

Gooding, ID, Gooding Muni, RNAV (GPS) RWY 7, Orig

Gooding, ID, Gooding Muni, RNAV (GPS) RWY 25, Orig

Gooding, ID, Gooding Muni, Takeoff Minimums and Obstacle DP, Orig

Columbus, IN, Columbus Muni, RNAV (GPS) RWY 14, Amdt 1

Columbus, IN, Columbus Muni, Takeoff Minimums and Obstacle DP, Orig

South Bend, IN, South Bend Rgnl, RADAR-1, Amdt 10, CANCELLED

Vincennes, IN, O'Neal, NDB OR GPS-A, Amdt 5, CANCELLED

Vincennes, IN, O'Neal, Takeoff Minimums and Obstacle DP, Amdt 1, CANCELLED

Manhattan, KS, Manhattan Rgnl, NDB OR GPS-A, Amdt 19C, CANCELLED

Olathe, KS, Johnson County Executive, VOR RWY 36, Amdt 11A CANCELLED

Parsons, KS, Tri-City, RNAV (GPS) RWY 17, Amdt 1

Parsons, KS, Tri-City, RNAV (GPS) RWY 35, Amdt 1

Parsons, KS, Tri-City, Takeoff and Minimums and Obstacle DP, Orig

Alexandria, LA, Esler Rgnl, NDB RWY 26, Orig

Hancock, MI, Houghton County Memorial, ILS OR LOC RWY 31, Amdt 14

Hancock, MI, Houghton County Memorial, LOC/DME BC RWY 13, Amdt 12

International Falls, MN, Falls Intl, VOR/DME RWY 31, Amdt 5

Rugby, ND, Rugby Muni, NDB RWY 12, Amdt 5, CANCELLED

Rugby, ND, Rugby Muni, NDB RWY 30, Amdt 6A, CANCELLED

Oshkosh, NE, Garden County, RNAV (GPS) RWY 12, Amdt 2

Oshkosh, NE, Garden County, RNAV (GPS) RWY 30, Amdt 1

Thedford, NE, Thomas County, RNAV (GPS) RWY 11, Amdt 1

Thedford, NE, Thomas County, RNAV (GPS) RWY 29, Amdt 1

Thedford, NE, Thomas County, Takeoff Minimums and Obstacle DP, Amdt 1

Thedford, NE, Thomas County, VOR RWY 11, Amdt 2

Thedford, NE, Thomas County, VOR/DME RWY 29, Amdt 1

Cincinnati, OH, Cincinnati Muni Airport—Lunken Field, Takeoff Minimums and Obstacle DP, Amdt 13

Tulsa, OK, Richard Lloyd Jones Jr, ILS OR LOC RWY 1L, Amdt 1A

Miller, SD, Miller Muni, Takeoff Minimums and Obstacle DP, Orig

Jackson, TN, McKeller-Sipes Regional, LOC BC RWY 20, Amdt 5B, CANCELLED

Hillsboro, TX, Hillsboro Muni, RNAV (GPS) RWY 16, Amdt 1

Hillsboro, TX, Hillsboro Muni, RNAV (GPS) RWY 34, Amdt 1

Tacoma, WA, Tacoma Narrows, GPS RWY 17, Orig-A, CANCELLED

Tacoma, WA, Tacoma Narrows, RNAV (GPS) RWY 17, Orig

Osceola, WI, L O Simenstad Muni, NDB RWY 28, Amdt 11, CANCELLED

On May 16, 2008 (73 FR 30769) the FAA published an Amendment in Docket No.

30609, Amdt. No. 3270 to Part 97 of the Federal Aviation Regulations under sections

97.23 effective July 31, 2008 which are hereby rescinded:

Bethel, AK, Bethel, ILS OR LOC/DME RWY 19R, Amdt 6

Bethel, AK, Bethel, LOC/DME BC RWY 1L, Amdt 6  
 Bethel, AK, Bethel, NDB RWY 18, Amdt 8C, CANCELLED  
 Bethel, AK, Bethel, RNAV (GPS) RWY 1L, Amdt 1  
 Bethel, AK, Bethel, RNAV (GPS) RWY 1R, Orig  
 Bethel, AK, Bethel, RNAV (GPS) RWY 19L, Orig  
 Bethel, AK, Bethel, RNAV (GPS) RWY 19R, Amdt 1  
 Bethel, AK, Bethel, RNAV (GPS)—A, Amdt 1  
 Bethel, AK, Bethel, Takeoff Minimums and Obstacle DP, Amdt 3  
 Bethel, AK, Bethel, VOR RWY 18, Amdt 8C, CANCELLED  
 Bethel, AK, Bethel, VOR/DME RWY 1L, Amdt 2  
 Bethel, AK, Bethel, VOR/DME RWY 19R, Amdt 2  
 Bethel, AK, Bethel, VOR/DME—B, Orig-A, CANCELLED

[FR Doc. E8-16529 Filed 7-21-08; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9417]

RIN 1545-BE39

#### Farmer and Fisherman Income Averaging

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains final and temporary regulations under section 1301 of the Internal Revenue Code (Code) relating to the averaging of farm and fishing income in computing income tax liability. The regulations reflect changes to the law made by the American Jobs Creation Act of 2004. The regulations provide guidance to individuals engaged in a farming or fishing business who elect to reduce their tax liability by treating all or a portion of the current taxable year's farm or fishing income as if one-third of it had been earned in each of the prior three taxable years. The text of the temporary regulations in this document also serves as the text of proposed regulations set forth in a notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These regulations are effective on July 22, 2008.

*Applicability Dates:* For dates of applicability, see §§ 1.1301-1(g) and 1.1301-1T(g).

**FOR FURTHER INFORMATION CONTACT:** Amy Pfalzgraf, (202) 622-4950 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains final and temporary amendments to the Income Tax Regulations (26 CFR part 1) under section 1301. For taxable years beginning after December 31, 1997, section 1301 provides that individual taxpayers engaged in a farming business may elect to compute their income tax liability under section 1 by treating all or a portion of their taxable income from the trade or business of farming as if one-third of it had been earned in each of the prior three taxable years.

Section 314(b) of the American Jobs Creation Act of 2004 (AJCA), Public Law 108-357 (118 Stat. 1468), amended section 1301 to permit fishermen to make a farm income averaging election. Section 1301(b)(1)(A) now provides that the income eligible for averaging includes income attributable to a fishing business. *Fishing business* is defined in section 1301(b)(4) as the conduct of commercial fishing as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1802.

The Magnuson-Stevens Act defines *commercial fishing* as fishing in which the fish harvested are intended to or do enter commerce through sale, barter, or trade. 16 U.S.C. 1802(4). *Fishing* is defined as the catching, taking, or harvesting of fish; the attempted catching, taking, or harvesting of fish; activities that reasonably can be expected to result in the catching, taking, or harvesting of fish; or any operations at sea in support of, or in preparation for, the catching, taking, or harvesting of fish. Fishing does not include any scientific research activity conducted by a scientific research vessel. 16 U.S.C. 1802(15). *Fish* is defined as finfish, mollusks, crustaceans, and all other forms of marine animal and plant life, other than marine mammals and birds. 16 U.S.C. 1802(12). Under 50 CFR 600.10, the terms *catch*, *take*, or *harvest* include activities that result in the killing of fish or the bringing of live fish on board a vessel.

Section 314(a) of the AJCA amended section 55(c) to provide that the farm income averaging election is disregarded in computing the regular tax liability for purposes of calculating the alternative minimum tax (AMT). As a result, the reduction in regular tax liability resulting from a farm income

averaging election will not be offset by a corresponding increase in the AMT.

Section 1.1301-1 of the Income Tax Regulations provides guidance on income averaging for farmers under the rules in effect before the AJCA amendments.

##### Explanation of Provisions

These temporary regulations provide guidance on the AJCA changes to the income averaging rules. In addition, conforming changes are made to the final regulations in § 1.1301-1.

##### Definition of Fishing Business

Section 1301(b)(4) defines *fishing business* by reference to section 3 of the Magnuson-Stevens Act. The definition of fishing business in these temporary regulations follows the definitions in the Magnuson-Stevens Act and the regulations under that Act. Thus, fishing includes catching, taking, or harvesting activities that result in the killing of fish or the bringing of live fish on board a vessel, but does not include the processing of fish.

##### Amount of Income Eligible for Averaging

Section 1301(b)(1)(A) provides that income attributable to any farming business or fishing business is eligible for income averaging. These temporary regulations clarify that the maximum amount of income that an individual may elect to average is the total of the individual's farm and fishing income and gains, reduced by any farm and fishing deductions or losses allowed as a deduction in computing taxable income. Therefore, a taxpayer engaged in both a farming business and a fishing business must combine income, gains, deductions, and losses from both the farming business and the fishing business to determine the maximum amount of income that is eligible for averaging.

##### Lessors of Vessels Used for Fishing

The rental income of a landlord that is based on a share of a tenant's production is subject to fluctuations in the farm economy to the same extent as that of a farmer. Therefore, § 1.1301-1(b)(2) provides that a landlord is engaged in a farming business if this arrangement is established in a written agreement before the tenant begins significant activities on the land.

These temporary regulations similarly provide that a lessor of a vessel is engaged in a fishing business within the meaning of section 1301(b)(4) if the payment due to the lessor under the lease is based on a share of the lessee's catch (or a share of the proceeds from

the sale of the catch) and the lease is a written agreement entered into before the lessee begins significant fishing activities resulting in the shared catch. A fixed lease payment is not eligible for income averaging.

#### Crewmembers

The income of crewmembers on vessels engaged in fishing also is subject to fluctuations in the fishing economy if the crewmembers' compensation is based on a share of the vessel's catch of fish or a share of the proceeds from the sale of the catch. Accordingly, these temporary regulations provide that these crewmembers are engaged in a fishing business, whether or not they are treated as employees for employment tax purposes.

#### Deposits Into Merchant Marine Capital Construction Fund

Section 7518(c)(1)(A) provides that certain deposits into a Merchant Marine Capital Construction Fund (CCF) reduce taxable income for purposes of the Code (the CCF reduction). These temporary regulations provide that, for purposes of income averaging computations, the CCF reduction also reduces taxable income. In addition, except to the extent that the amount of the CCF deposit is determined by reference to income from maritime operations other than fishing, the CCF reduction also reduces the amount of income that is eligible for income averaging.

#### Effective/Applicability Date

These temporary regulations apply for taxable years beginning after July 22, 2008. However, taxpayers may apply the temporary regulations in taxable years beginning after December 31, 2003, but before July 23, 2008, if all provisions are consistently applied in each taxable year.

#### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for

comment on their impact on small business.

#### Drafting Information

The principal author of these regulations is Amy Pfalzgraf of the Office of the Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Section 1.1301–1T also issued under 26 U.S.C. 1301(c). \* \* \*

■ **Par. 2.** Section 1.1301–1 is amended by:

■ 1. Adding new paragraphs (b)(3) and (d)(4).

■ 2. Revising paragraph (g).

The additions and revision read as follows:

#### § 1.1301–1 Averaging of farm income.

\* \* \* \* \*

(b) \* \* \*

(3) [Reserved]. For further guidance, see § 1.1301–1T(b)(3).

\* \* \* \* \*

(d) \* \* \*

(4) [Reserved]. For further guidance, see § 1.1301–1T(d)(4).

\* \* \* \* \*

(g) *Effective/applicability date.* (1) Except as provided in paragraphs (b)(2), (g)(2), and (g)(3) of this section and § 1.1301–1T(g)(2), this section applies to taxable years beginning after December 31, 2001.

(2) Paragraphs (a), (b)(1), (c)(1), (d)(3)(ii), (e), (f)(2), and (f)(4) of this section apply only for taxable years beginning before July 23, 2008. For taxable years beginning after July 22, 2008, see § 1.1301–1T.

(3) Paragraphs (b)(3) and (d)(4) of this section apply for taxable years beginning after July 22, 2008.

■ **Par. 3.** Section 1.1301–1T is added to read as follows:

#### § 1.1301–1T Averaging of farm and fishing income (temporary).

(a) *Overview.* An individual engaged in a farming or fishing business may

make a farm income averaging election to compute current year (election year) income tax liability under section 1 by averaging, over the prior three-year period (base years), all or a portion of the individual's current year electible farm income as defined in paragraph (e) of this section. Electible farm income includes income from both farming and fishing businesses, and the farm income averaging election permits the averaging of both farm and fishing income. An individual that makes a farm income averaging election—

(1) Designates all or a portion of the individual's electible farm income for the election year as elected farm income; and

(2) Determines the election year section 1 tax by determining the sum of—

(i) The section 1 tax that would be imposed for the election year if taxable income for the year were reduced by elected farm income; plus

(ii) For each base year, the amount by which the section 1 tax would be increased if taxable income for the year were increased by one-third of elected farm income.

(b) *Individual engaged in a farming or fishing business—*(1) *In general—*(i) *Farming or fishing business.* Farming business has the same meaning as provided in section 263A(e)(4) and the regulations under that section. *Fishing business* means the conduct of commercial fishing as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(4)). Accordingly, a fishing business is fishing in which the fish harvested are intended to or do enter commerce through sale, barter, or trade. *Fishing* means the catching, taking, or harvesting of fish; the attempted catching, taking, or harvesting of fish; any activities that reasonably can be expected to result in the catching, taking, or harvesting of fish; or any operations at sea in support of or in preparation for the catching, taking, or harvesting of fish. Fishing does not include any scientific research activity conducted by a scientific research vessel. *Fish* means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life, other than marine mammals and birds. *Catching, taking, or harvesting* includes activities that result in the killing of fish or the bringing of live fish on board a vessel.

(ii) *Form of business.* An individual engaged in a farming or fishing business includes a sole proprietor of a farming or fishing business, a partner in a partnership engaged in a farming or fishing business, and a shareholder of an S corporation engaged in a farming

or fishing business. Except as provided in paragraph (e)(1)(i) of this section, services performed as an employee are disregarded in determining whether an individual is engaged in a farming or fishing business for purposes of section 1301.

(iii) *Base years.* An individual is not required to have been engaged in a farming or fishing business in any of the base years in order to make a farm income averaging election.

(2) [Reserved]. For further guidance, see § 1.1301–1(b)(2).

(3) *Lessors of vessels used in fishing.* A lessor of a vessel is engaged in a fishing business for purposes of section 1301 with respect to payments that are received under the lease and are based on a share of the catch from the lessee's use of the vessel in a fishing business (or a share of the proceeds from the sale of the catch) if this manner of payment is determined under a written lease agreement entered into before the lessee begins any significant fishing activities resulting in the catch. A lessor of a vessel is not engaged in a fishing business for purposes of section 1301 with respect to fixed lease payments or with respect to lease payments based on a share of the lessee's catch (or a share of the proceeds from the sale of the catch) if the share is determined under either an unwritten agreement or a written agreement entered into after the lessee begins significant fishing activities resulting in the catch.

(c) *Making, changing, or revoking an election—(1) In general.* A farm income averaging election is made by filing Schedule J, "Income Averaging for Farmers and Fishermen," with an individual's Federal income tax return for the election year (including a late or amended return if the period of limitation on filing a claim for credit or refund has not expired).

(2) [Reserved]. For further guidance, see § 1.1301–1(c)(2).

(d)(1) through (3)(i) [Reserved]. For further guidance, see § 1.1301–1(d)(1) through (3)(i).

(ii) *Example.* The rules of this paragraph (d)(3) are illustrated by the following example:

*Example.* (i) T is a fisherman who uses the calendar taxable year. In each of the years 2001, 2002, and 2003, T's taxable income is \$20,000. In 2004, T has taxable income of \$30,000 (prior to any farm income averaging election) and elective farm income of \$10,000. T makes a farm income averaging election with respect to \$9,000 of the elective farm income for 2004. Under paragraph (a)(2)(ii) of this section, \$3,000 of elected farm income is allocated to each of the base years 2001, 2002, and 2003. Under paragraph (a)(2) of this section, T's 2004 tax liability is the sum of the following amounts:

(A) The section 1 tax on \$21,000, which is T's taxable income of \$30,000, minus elected farm income of \$9,000.

(B) For each of the base years 2001, 2002, and 2003, the amount by which section 1 tax would be increased if one-third of elected farm income were allocated to each year. The amount for each year is the section 1 tax on \$23,000 (T's taxable income of \$20,000, plus \$3,000, which is one-third of elected farm income for the 2004 election year), minus the section 1 tax on \$20,000.

(ii) In 2005, T has taxable income of \$50,000 and elective farm income of \$12,000. T makes a farm income averaging election with respect to all \$12,000 of the elective farm income for 2005. Under paragraph (a)(2)(ii) of this section, \$4,000 of elected farm income is allocated to each of the base years 2002, 2003, and 2004. Under paragraph (a)(2) of this section, T's 2005 tax liability is the sum of the following amounts:

(A) The section 1 tax on \$38,000, which is T's taxable income of \$50,000, minus elected farm income of \$12,000.

(B) For each of base years 2002 and 2003, the amount by which section 1 tax would be increased if, after adjustments for previous farm income averaging elections pursuant to paragraph (d)(3)(i) of this section, one-third of elected farm income were allocated to each year. The amount for each year is the section 1 tax on \$27,000 (T's taxable income of \$20,000 increased by \$3,000 for T's 2004 farm income averaging election and further increased by \$4,000, which is one-third of elected farm income for the 2005 election year), minus the section 1 tax on \$23,000 (T's taxable income of \$20,000 increased by \$3,000 for T's 2004 farm income averaging election).

(C) For base year 2004, the amount by which section 1 tax would be increased if, after adjustments for previous farm income averaging elections pursuant to paragraph (d)(3)(i) of this section, one-third of elected farm income were allocated to that year. This amount is the section 1 tax on \$25,000 (T's taxable income of \$30,000 reduced by \$9,000 for T's 2004 farm income averaging election and increased by \$4,000, which is one-third of elected farm income for the 2005 election year), minus the section 1 tax on \$21,000 (T's taxable income of \$30,000 reduced by \$9,000 for T's 2004 farm income averaging election).

(4) *Deposits into Merchant Marine Capital Construction Fund—(i) Reductions to taxable income and elective farm income.* Under section 7518(c)(1)(A), certain deposits to a Merchant Marine Capital Construction Fund (CCF) reduce taxable income for purposes of the Code (the CCF reduction). The amount of the CCF reduction is limited under section 7518(a)(1)(A) to the taxpayer's taxable income (determined without regard to the reduction) attributable to specified maritime operations including operations in fisheries of the United States. The CCF reduction is taken into account in determining the taxable income used in computations under this section. In addition, except to the extent

the amount described in section 7518(a)(1)(A) is not attributable to the individual's fishing business, the CCF reduction is treated in computing elective farm income as an item of deduction attributable to the individual's fishing business.

(ii) *Example.* The rules of this paragraph (d)(4) are illustrated by the following example:

*Example.* (i) T is a fisherman who uses the calendar taxable year. In each of the years 2001, 2002, and 2003, T's taxable income (before taking any CCF reduction into account) is \$20,000. For taxable year 2002, all of T's income is described in section 7518(a)(1)(A) and is attributable to T's fishing business. T makes a \$5,000 deposit into a CCF for taxable year 2002. In 2004, T has taxable income of \$30,000 (before taking any CCF reduction into account). In addition, T's elective farm income for 2004 (before taking the CCF reduction into account) is \$10,000, all of which is described in section 7518(a)(1)(A) and is attributable to T's fishing business. For taxable year 2004, T makes a \$4,000 deposit into a CCF.

(ii) The amount of the 2004 CCF deposit reduces taxable income. Accordingly, T's taxable income for 2004 is \$26,000 (\$30,000 – \$4,000). In addition, the entire amount of the CCF reduction is treated as an item of deduction attributable to T's fishing business. Accordingly, T's elective farm income for 2004 is \$6,000 (\$10,000 – \$4,000). Similarly, the amount of the 2002 CCF deposit reduces T's taxable income for 2002. Accordingly, T's taxable income for 2002 is \$15,000 (\$20,000 – \$5,000).

(iii) T makes an income averaging election with respect to all \$6,000 of the elective farm income for 2004. Under paragraph (a)(2)(ii) of this section, \$2,000 of elected farm income is allocated to each of the base years 2001, 2002, and 2003. Under paragraph (a)(2) of this section, T's 2004 tax liability is the sum of the following amounts:

(A) The section 1 tax on \$20,000, which is T's taxable income of \$26,000 (\$30,000 reduced by the \$4,000 CCF deposit), minus elected farm income of \$6,000.

(B) For each of the base years 2001, 2002, and 2003, the amount by which section 1 tax would be increased if one-third of elected farm income were allocated to each year. The amount for base years 2001 and 2003 is the section 1 tax on \$22,000 (T's taxable income of \$20,000, plus \$2,000, which is one-third of elected farm income for the election year), minus the section 1 tax on \$20,000. The amount for base year 2002 is the section 1 tax on \$17,000 (T's taxable income of \$15,000 (\$20,000 reduced by the \$5,000 CCF deposit), plus \$2,000 (one-third of elected farm income for the election year)), minus the section 1 tax on \$15,000.

(e) *Elective farm income—(1) Identification of items attributable to a farming or fishing business—(i) In general.* Farm and fishing income includes items of income, deduction, gain, and loss attributable to an individual's farming or fishing business.



Farm and fishing losses include, to the extent attributable to a farming or fishing business, any net operating loss carryover or carryback or net capital loss carryover to an election year. Income, gain, or loss from the sale of development rights, grazing rights, and other similar rights is not treated as attributable to a farming business. In general, farm and fishing income does not include compensation received as an employee. However, a shareholder of an S corporation engaged in a farming or fishing business may treat compensation received from the corporation as farm or fishing income if the compensation is paid by the corporation in the conduct of the farming or fishing business. If a crewmember on a vessel engaged in commercial fishing (within the meaning of section 3 of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1802(4)) is compensated by a share of the boat's catch of fish or a share of the proceeds from the sale of the catch, the crewmember is treated for purposes of section 1301 as engaged in a fishing business and the compensation is treated for such purposes as income from a fishing business.

(ii) *Gain or loss on sale or other disposition of property*—(A) *In general.* Gain or loss from the sale or other disposition of property that was regularly used in the individual's farming or fishing business for a substantial period of time is treated as attributable to a farming or fishing business. For this purpose, the term *property* does not include land, but does include structures affixed to land. Property that has always been used solely in the farming or fishing business by the individual is deemed to meet both the regularly used and substantial period tests. Whether property not used solely in the farming or fishing business was regularly used in the farming or fishing business for a substantial period of time depends on all of the facts and circumstances.

(B) *Cessation of a farming or fishing business.* If gain or loss described in paragraph (e)(1)(ii)(A) of this section is realized after cessation of a farming or fishing business, the gain or loss is treated as attributable to a farming or fishing business only if the property is sold within a reasonable time after cessation of the farming or fishing business. A sale or other disposition within one year of cessation of the farming or fishing business is presumed to be within a reasonable time. Whether a sale or other disposition that occurs more than one year after cessation of the farming or fishing business is within a

reasonable time depends on all of the facts and circumstances.

(2) *Determination of amount that may be elected farm income*—(i) *Electible farm income.* (A) The maximum amount of income that an individual may elect to average (electible farm income) is the sum of any farm and fishing income and gains, minus any farm and fishing deductions or losses (including loss carryovers and carrybacks) that are allowed as a deduction in computing the individual's taxable income.

(B) Individuals conducting both a farming business and a fishing business must calculate electible farm income by combining income, gains, deductions, and losses derived from the farming business and the fishing business.

(C) Except as otherwise provided in paragraph (d)(4) of this section, the amount of any CCF reduction is treated as a deduction from income attributable to a fishing business in calculating electible farm income.

(D) Electible farm income may not exceed taxable income, and electible farm income from net capital gain attributable to a farming or fishing business may not exceed total net capital gain. Subject to these limitations, an individual who has both ordinary income and net capital gain from a farming or fishing business may elect to average any combination of the ordinary income and net capital gain.

(ii) *Examples.* The rules of this paragraph (e)(2) of this section are illustrated by the following examples:

*Example 1.* A has ordinary income from a farming business of \$200,000 and deductible expenses from a farming business of \$50,000. A's taxable income is \$150,000 (\$200,000 – \$50,000). Under paragraph (e)(2)(i) of this section, A's electible farm income is \$150,000, all of which is ordinary income.

*Example 2.* B has capital gain of \$20,000 that is not from a farming or fishing business, capital loss from a farming business of \$30,000, and ordinary income from a farming business of \$100,000. Under section 1211(b), B's allowable capital loss is limited to \$23,000. B's taxable income is \$97,000 ((\$20,000 – \$23,000) + \$100,000). B has a capital loss carryover from a farming business of \$7,000 (\$30,000 total loss – \$23,000 allowable loss). Under paragraph (e)(2)(i) of this section, B's electible farm income is \$77,000 (\$100,000 ordinary income from a farming business, minus \$23,000 capital loss from a farming business), all of which is ordinary income.

*Example 3.* C has ordinary income from a fishing business of \$200,000 and ordinary loss from a farming business of \$60,000. C's taxable income is \$140,000 (\$200,000 – \$60,000). Under paragraph (e)(2)(i)(B) of this section, C must deduct the farm loss from the fishing income in determining C's electible farm income.

Therefore, C's electible farm income is \$140,000 (\$200,000 – \$60,000), all of which is ordinary income.

*Example 4.* D has ordinary income from a farming business of \$200,000 and ordinary loss of \$50,000 that is not from a farming or fishing business. D's taxable income is \$150,000 (\$200,000 – \$50,000). Under paragraph (e)(2)(i)(D) of this section, electible farm income may not exceed taxable income. Therefore, D's electible farm income is \$150,000, all of which is ordinary income.

*Example 5.* E has capital gain from a farming business of \$50,000, capital loss of \$40,000 that is not from a farming or fishing business, and ordinary income from a farming business of \$60,000. E's taxable income is \$70,000 ((\$50,000 – \$40,000) + \$60,000). Under paragraph (e)(2)(i)(D) of this section, electible farm income may not exceed taxable income, and electible farm income from net capital gain attributable to a farming or fishing business may not exceed total net capital gain. Therefore, E's electible farm income is \$70,000 of which \$10,000 is capital gain and \$60,000 is ordinary income.

(f)(1) [Reserved]. For further guidance, see § 1.1301–1(f)(1).

(2) *Changes in filing status.* An individual is not prohibited from making a farm income averaging election solely because the individual's filing status is not the same in an election year and the base years. For example, an individual who is married and files a joint return in the election year, who filed as single in one or more of the base years, may elect to average farm or fishing income, by using the single filing status to compute the increase in section 1 taxes for the base years in which the individual filed as single.

(f)(3) [Reserved]. For further guidance, see § 1.1301–1(f)(3).

(4) *Alternative minimum tax.* A farm income averaging election is disregarded in computing the tentative minimum tax and the regular tax under section 55 for the election year or any base year. The election is taken into account, however, in determining the regular tax liability under section 53(c) for the election year.

(f)(5) [Reserved]. For further guidance, see § 1.1301–1(f)(5).

(g) *Effective/applicability date.* (1) This section applies for taxable years beginning after July 22, 2008.

(2) Taxpayers may apply the provisions of this section rather than the corresponding provisions of § 1.1301–1 in taxable years beginning after December 31, 2003, but before July 23, 2008, if all provisions are consistently applied in each taxable year.



(3) This section expires on July 21, 2011.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 7, 2008.

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. E8-16665 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2008-0698]

#### **Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the special local regulation for the "Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races" from 7 a.m. to 7:30 p.m. each day, from July 25, 2008 through July 27, 2008. This action is necessary to assist in minimizing the inherent dangers associated with hydroplane races. During the enforcement period, no person or vessel may enter the regulated area without permission of the Captain of the Port.

**DATES:** The regulations in 33 CFR 100.1303 will be enforced from 7 a.m. to 7:30 p.m. each day from July 25, 2008 through July 27, 2008.

**FOR FURTHER INFORMATION CONTACT:** BM2 Joshua Lehner, Sector Portland Waterways Management at (503) 247-4015.

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the special local regulation for the Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races in 33 CFR 100.1303 from 7 a.m. to 7:30 p.m. each day from July 25, 2008 through July 27, 2008.

Under the provisions of 33 CFR 100.1303, a vessel may not enter the regulated area, unless it receives permission from the Coast Guard Patrol Commander. Vessels granted permission to enter the zone by the Patrol Commander shall not exceed minimum wake speed without the permission of the Patrol Commander. A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area

under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled to stop shall stop and comply with orders of the patrol vessel personnel; failure to do so may result in expulsion from the area, citation, or both. The Coast Guard may be assisted by other Federal, state, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 100.1303 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and a marine information broadcast. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: July 7, 2008.

**F.G. Myer,**

*Captain, U.S. Coast Guard, Captain of the Port Portland.*

[FR Doc. E8-16677 Filed 7-21-08; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[USCG-2008-0593]

#### **Celebrate Milwaukie Fireworks Display, Portland, OR**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the "Celebrate Milwaukie Fireworks Display safety zone on the Willamette River"; from 8:30 p.m. through 11:30 p.m. On July 26, 2008. This action is necessary to provide a safe display for the public and to keep them clear of the fall out area of the fireworks. During the enforcement period, no person or vessel may enter the safety zone without permission of the Captain of the Port.

**DATES:** The regulations in 33 CFR 165.1315(a)(12) will be enforced from 8:30 p.m. through 11:30 p.m. On July 26, 2008.

**FOR FURTHER INFORMATION CONTACT:** BM2 Joshua Lehner, Sector Portland Waterways Management at (503) 247-4015.

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the safety zone for

the Celebrate Milwaukie Fireworks Display in 33 CFR 165.1315(a)(12) on July 26, 2008 from 8:30 p.m. to 11:30 p.m.

Under the provisions of 33 CFR 165.1315, a vessel may not enter the regulated area, unless it receives permission from the COTP. The Coast Guard may be assisted by other Federal, state, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.1315(a)(12) and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and a marine information broadcast. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: June 20, 2008.

**F.G. Myer,**

*Captain, U.S. Coast Guard, Captain of the Port, Portland.*

[FR Doc. E8-16676 Filed 7-21-08; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0215]

RIN 1625-AA00

#### **Safety Zones: Festival of Sail San Francisco, San Francisco, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard will establish temporary safety zones in support of the scheduled Festival of Sail Events from July 23, 2008, through July 27, 2008. The safety zones will include a parade and two mock cannon battles referred to as location "alpha" and location "bravo". The temporary safety zones are necessary to provide for the safety of spectators, participating vessels and crews.

**DATES:** This rule is effective for the Festival of Sail—Parade of Ships from 11:59 a.m. through 4 p.m. on July 23, 2008; for the mock cannon battle location "alpha" from 2 p.m. through 4:30 p.m. on July 25, 2008, and July 26, 2008; and for the mock cannon battle location "bravo" from 2 p.m. through

4:30 p.m. on July 24, 2008, and July 27, 2008.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0215 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and Coast Guard Sector San Francisco, 1 Yerba Buena Island, San Francisco, California, 94130 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call Lieutenant Junior Grade Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 399–7436. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On June 13, 2008, we published a notice of proposed rulemaking (NPRM) entitled “Safety Zones: Festival of Sail San Francisco, San Francisco, CA” in the **Federal Register** (73 FR 115). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

##### **Background and Purpose**

The American Sail Training Association, in coordination with the local sponsor, Festival of Sail San Francisco, is sponsoring the 2008 Festival of Sail Event. This event is a part of the Tall Ships® Challenge race series transiting the Pacific Ocean along the west coast of North America. Between the races, the participating vessels will visit several ports, including San Francisco. Vessels will be docked along the waterfront offering the public the opportunity to tour vessels, sail and learn. There are many activities on the water scheduled to take place; such as mock cannon battles and the parade. Safety zones will be established along with the issuance of marine event permits for this event. The temporary safety zones are necessary to provide for the safety of the crews, spectators, and participants of the Festival of Sail and

are also necessary to protect other vessels and users of waterway.

##### **Discussion of Comments and Changes**

No comments were received about the event taking place. This document reflects the information published in the original NPRM.

##### **Discussion of Rule**

The Coast Guard will establish a moving safety zone extending 100 yards around each vessel participating in the Festival of Sail—Parade of Ships as each vessel transits through San Francisco Bay. The safety zones surrounding the participant vessels will be enforced on July 23, 2008. The parade route is as follows, it will commence at the Golden Gate Bridge, extend east to Alcatraz Island and then south to Pier 40, and will be bounded by a line connecting the following points: 37[deg]48’40” N and 122[deg]28’38” W, 37[deg]49’10” N and 122[deg]28’41” W, 37[deg]49’31” N and 122[deg]25’18” W, 37[deg]49’06” N and 122[deg]24’08” W, 37[deg]47’53” N and 122[deg]22’42” W, 37[deg]46’54” N, 122[deg]23’09” W.

The Coast Guard will establish a temporary safety zone for the mock cannon battles taking place west of Alcatraz Island. This location will be called location “alpha”. The safety zone will be bounded by a line connecting the following points: 37[deg]49’18” N and 122[deg]25’40” W, 37[deg]49’24” N and 122[deg]25’18” W, 37[deg]49’45” N and 122[deg]25’42” W, and lastly 37[deg]49’37” N and 122[deg]26’05” W; and will include all navigable waters from the surface to the seafloor. This safety zone will be in effect on July 25, 2008, and July 26, 2008.

The Coast Guard will establish a temporary safety zone for the mock cannon battles taking place west of Treasure Island in Anchorage 7. This location will be called location “bravo”. The safety zone will be bounded by a line connecting the following points: 37[deg]48’55” N and 122[deg]23’03” W, 37[deg]49’07” N and 122[deg]22’32” W, 37[deg]49’28” N and 122[deg]22’53” W and lastly 37[deg]49’18” N and 122[deg]23’28” W; and will include all navigable waters from the surface to the seafloor. This safety zone will be in effect on July 24, 2008, and July 27, 2008.

These safety zones are necessary to provide for the safety of the crews, spectators, and participants of the Festival of Sail. Persons and vessels would be prohibited from entering into, transiting through, or anchoring within these safety zones unless authorized by the Captain of the Port, or his designated representative.

##### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### **Regulatory Planning and Review**

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

##### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

##### **Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

##### **Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

##### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of

their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary "Environmental Analysis Check List" supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T11–025 to read as follows:

### § 165.T11–025 Safety Zones; Festival of Sail, San Francisco, CA.

(a) *Location.* These temporary safety zones are established for the Festival of Sail Events taking place in the following locations:

(1) For the Festival of Sail—Parade of Ships the moving safety zone extends 100 yards around each vessel participating in the Parade of Ships as each vessel transits through San Francisco Bay to its respective mooring site.

(2) For the mock cannon battles, the safety zone for location "alpha" will take place west of Alcatraz Island. The safety zone will be bounded by a line connecting the following points: 37[deg]49'18" N and 122[deg]25'40" W, 37[deg]49'24" N and 122[deg]25'18" W, 37[deg]49'45" N and 122[deg]25'42" W, and lastly 37[deg]49'37" N and 122[deg]26'05" W; and will include all navigable waters from the surface to the seafloor.

(3) For the mock cannon battles, the safety zone for location "bravo" will take place west of Treasure Island in Anchorage 7. The safety zone will be bounded by a line connecting the following points: 37[deg]48'55" N and 122[deg]23'03" W, 37[deg]49'07" N and 122[deg]22'32" W, 37[deg]49'28" N and 122[deg]22'53" W and lastly 37[deg]49'18" N and 122[deg]23'28" W; and will include all navigable waters from the surface to the seafloor.

(b) *Definitions.* As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zones.

(c) *Regulations.* (1) Under the general regulations in § 165.23, entry into, transiting, or anchoring within these safety zones is prohibited unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zone on VHF–16 or the 24-

hour Command Center via telephone at (415) 399-3547.

(d) *Effective period.* This section is effective for the Festival of Sail-Parade of Ships from 11:59 a.m. through 4 p.m. on July 23, 2008; for the mock cannon battle location "alpha" from 2 p.m. through 4:30 p.m. on July 25, 2008, and July 26, 2008; and for the mock cannon battle location "bravo" from 2 p.m. through 4:30 p.m. on July 24, 2008, and July 27, 2008.

Dated: July 9, 2008.

P.M. Gugg,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. E8-16674 Filed 7-22-08; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-HQ-OAR-2002-0086, FRL-8695-9]

RIN 2060-AN80

### National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is issuing amendments to the national emission standards for hazardous air pollutants (NESHAP) for semiconductor manufacturing. These amendments establish a new maximum achievable control technology floor level of control for existing and new combined hazardous air pollutants process vent streams containing

inorganic and organic hazardous air pollutants and clarify the emission requirements for process vents by adding definitions for organic, inorganic, and combined hazardous air pollutant process vent streams that contain both organic and inorganic hazardous air pollutant.

**DATES:** This final rule is effective on July 22, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2002-0086. All documents in the docket are listed in the Federal Docket Management System index at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Schaefer, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243-05),

Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-0296; fax number: (919) 541-3207; e-mail address: [Schaefer.john@epa.gov](mailto:Schaefer.john@epa.gov).

## SUPPLEMENTARY INFORMATION:

### Outline

The information presented in this preamble is organized as follows:

- I. General Information
  - A. Does this action apply to me?
  - B. Where can I get a copy of this document?
  - C. Judicial Review
- II. Background Information
- III. Summary of the Final Amendments
- IV. Summary of Comments and Responses
- V. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer Advancement Act
  - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
  - K. Congressional Review Act

### I. General Information

#### A. Does this action apply to me?

The regulated categories and entities potentially affected by these final amendments include:

Category	NAICS code <sup>1</sup>	Examples of regulated entities
Industry .....	334413	Semiconductor crystal growing facilities, semiconductor wafer fabrication facilities, semiconductor test and assembly facilities.
Federal government .....	.....	Not affected.
State/local/tribal government .....	.....	Not affected.

<sup>1</sup> North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in 40 CFR 63.7181 of the rule. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional

representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

#### B. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the

following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

#### C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of these final rules is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 22, 2008. Under section 307(d)(7)(B) of the CAA, only an objection to these final rules that was

raised with reasonable specificity during the period for public comment can be raised during judicial review. This section also provides a mechanism for us to convene a proceeding for reconsideration, “[i]f the person raising an objection can demonstrate to EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.” Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, Environmental Protection Agency, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20004. Moreover, under section 307(d)(7)(B) of the CAA, only an objection to these final rules that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by these final rules may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

## II. Background Information

On May 22, 2003, we promulgated the NESHAP for semiconductor manufacturing, under section 112(d) of the CAA. (68 FR 27913); 40 CFR part 63, subpart BBBBB). The NESHAP requires all semiconductor manufacturing facilities that are major sources of hazardous air pollutants (HAP) to meet standards reflecting application of the maximum achievable control technology (MACT). The NESHAP establishes emissions limitations for the control of HAP from semiconductor manufacturing operations. The compliance date for the NESHAP requirements was May 22, 2006.

After promulgation, it was brought to our attention that while the NESHAP established separate emission standards for organic and inorganic HAP from process vents, one plant had a different process vent system. Specifically, we learned that this plant combined inorganic and organic vent streams into a single atmospheric process vent. At

the time we developed the MACT standard, however, we had determined that since at least 1980 industry practice has been to strictly separate process vent emissions into streams containing either organic or inorganic HAP (71 FR 61701). This was because we were not aware of any sources that combined their inorganic and organic vent streams, and, therefore, had no data on such sources. Therefore, the NESHAP failed to account for the existence of combined organic and inorganic HAP process vents.

On October 19, 2006, in order to address these combined process vent streams, we proposed amending the NESHAP by establishing emission standards for existing and new combined process vent streams (71 FR 61701). We proposed no control for the limited number of existing combined process vents. Additionally, for new and reconstructed combined HAP process vents, we proposed the requirement for inorganic HAP process vents to be the same as the requirement that currently apply to inorganic HAP process vents and the requirement for organic HAP process vents to be the same as the requirement that currently apply to organic HAP process vents (71 FR 61703). Further, we proposed new definitions that clarified the applicability of the NESHAP to inorganic, organic and combined HAP process vents.

Subsequently, the DC Circuit in *Sierra Club v. EPA*, 479 F.3d 875 (DC Circuit 2007), found that our decision to set no control emission floors for source categories where the best performing sources did not use emission control technology was in direct contravention of CAA section 112(d)(3). In response to this decision, we issued a supplemental proposal on April 2, 2008 that proposed an emission limitation for existing and new combined HAP process vents. Specifically, we proposed that new and existing combined HAP process vents achieve a control level of 14.22 parts per million by volume (ppmv) (73 FR 17942). We also proposed no beyond the floor control options because we determined as prohibitive the costs associated with the one control option we evaluated.

## III. Summary of the Final Amendments

In today's rule we are taking final action on both our October 2006 (71 FR 61703), and April 2008 proposals (73 FR 17940). Therefore, we are finalizing, as proposed in October 2006, definitions that clarify the applicability of the NESHAP to inorganic, organic and combined HAP process vents. We are also promulgating, as proposed in April

2008, an emission limitation of 14.22 ppmv for new and existing combined HAP process vents.

## IV. Summary of Comments and Responses

We received 3 comments on our October 2006 and April 2008 proposals. The commenters were generally supportive of both proposals. A summary of the significant issues raised in the comments are included below.

*Comment:* One commenter expressed support for the development of a separate MACT floor level of control for combined HAP process vents contained in the April 2, 2008, proposal. The commenter stated, “This action appropriately recognizes that a limited number of process vents at older, existing facilities have unique emission characteristics that warrant distinction from the process vents used to establish the original MACT floor.” The commenter gave a description of the typical construction of a modern semiconductor facility indicating that clean rooms are situated on a single floor with semiconductor manufacturing tools arranged in cells of similar tools (e.g., web benches, furnaces, etc. are grouped together). The commenter stated that these features and other features in a modern semiconductor facility make the segregation and treatment of concentrated organic and inorganic HAP emission streams feasible. However, segregating emission streams into their organic and inorganic constituents was near infeasible for some older facilities, such as the one described by the commenter, where tools are located on three separate floors, and are not grouped together in cells according to tool function and type. Due to these reasons the commenter indicated strong support for EPA's development of a separate MACT floor for combined HAP process vents.

*Response:* We agree with the commenter that the proposed changes to the standard are necessary to account for the limited number of older facilities that do not segregate their emissions due to facility design limitations. Today's rule reflects our conclusion that a separate MACT floor for these facilities is appropriate. Therefore, as stated earlier we are promulgating definitions that clarify the applicability of the existing NESHAP and an emissions limitation of 14.22 ppmv for new and existing combined HAP process vents.

## V. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

### B. Paperwork Reduction Act

This action does not impose any new information collection burden. These amendments clarify applicability of the final rule. Therefore, the Information Collection Request (ICR) has not been revised.

However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations 40 CFR part 63, subpart BBBBBB under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0519. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses found at 13 CFR 121.201 (less than 500 employees for NAICS codes 331511, 331512, and 331513); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities since we do not create any new requirements or burdens that were not already included

in the economic impact assessment for the existing rule.

### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The final amendments are expected to result in an overall reduction in expenditures for the private sector and are not expected to impact State, local, or tribal governments. Thus, the final amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

### E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” are defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. These final amendments do not impose any requirements on State and local governments. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communication between EPA and State and local governments, EPA specifically solicited comment on the proposed rule from State and local officials.

### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not have tribal implications, as specified in Executive Order 13175. These final amendments impose no requirements on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

### G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This action is not subject to EO 13045 because it is based solely on technology performance.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-114, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because they do not affect the level of protection provided to human health or the environment. These final amendments do not relax the control measures on sources regulated by the rule and therefore will not cause emissions increases from these sources.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing these final amendments and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final amendments in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on July 22, 2008.

**List of Subjects in 40 CFR Part 63**

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: July 15, 2008.

Stephen L. Johnson,  
Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63, of the Code of the Federal Regulations is amended as follows:

**PART 63—[AMENDED]**

■ 1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

■ 2. Section 63.7184 is amended by revising paragraphs (b) and (c) and adding paragraph (f) to read as follows:

**§ 63.7184 What emission limitations, operating limits, and work practice standards must I meet?**

\* \* \* \* \*

(b) *Process vents—organic HAP emissions.* For each organic HAP process vent, other than process vents from storage tanks, you must limit organic HAP emissions to the level specified in paragraph (b)(1) or (2) of this section. These limitations can be met by venting emissions from your process vent through a closed vent system to any combination of control devices meeting the requirements of § 63.982(a)(2).

(1) Reduce the emissions of organic HAP from the process vent stream by 98 percent by weight.

(2) Reduce or maintain the concentration of emitted organic HAP from the process vent to less than or

equal to 20 parts per million by volume (ppmv).

(c) *Process vents—inorganic HAP emissions.* For each inorganic HAP process vent, other than process vents from storage tanks, you must limit inorganic HAP emissions to the level specified in paragraph (c)(1) or (2) of this section. These limitations can be met by venting emissions from your process vent through a closed vent system to a halogen scrubber meeting the requirements of §§ 63.983 (closed vent system requirements) and § 63.994 (halogen scrubber requirements); the applicable general monitoring requirements of § 63.996; the applicable performance test requirements; and the monitoring, recordkeeping and reporting requirements referenced therein.

(1) Reduce the emissions of inorganic HAP from the process vent stream by 95 percent by weight.

(2) Reduce or maintain the concentration of emitted inorganic HAP from the process vent to less than or equal to 0.42 ppmv.

\* \* \* \* \*

(f) *Process vents—combined HAP emissions.* For each combined HAP process vent, other than process vents from storage tanks, you must reduce or maintain the concentration of emitted HAP from the process vent to less than or equal to 14.22 ppmv. These limitations can be met by venting emissions from your process vent through a closed vent system to any combination of control devices meeting the requirements of § 63.982(a)(2).

■ 3. Section 63.7195 is amended by adding definitions in alphabetical order for "Combined HAP process vent", "Organic HAP process vent", and "Inorganic HAP process vent" to read as follows:

**§ 63.7195 What definitions apply to this subpart?**

\* \* \* \* \*

*Combined HAP process vent* means a process vent that emits both inorganic and organic HAP to the atmosphere.

\* \* \* \* \*

*Inorganic HAP process vent* means a process vent that emits only inorganic HAP to the atmosphere.

*Organic HAP process vent* means a process vent that emits only organic HAP to the atmosphere.

\* \* \* \* \*

[FR Doc. E8-16746 Filed 7-21-08; 8:45 am]

BILLING CODE 6560-50-P



**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300**

[FRL-8694-5]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct Final Deletion of the Pfohl Brothers Landfill Superfund Site (Site) from the National Priorities List.

**SUMMARY:** EPA, Region 2, is publishing a direct final Notice of Deletion of the Site, located in Cheektowaga, Erie County, New York, from the National Priorities List (NPL). The NPL is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, 42 U.S.C. 9605. This direct final Notice of Deletion is being published by EPA with the concurrence of the State of New York, through the New York State Department of Environmental Conservation (NYSDEC). EPA and NYSDEC have determined that the responsible parties have completed all appropriate remedial actions and that no further actions, other than operation and maintenance and five-year reviews, are required. In addition, EPA and NYSDEC have determined that the cleanup goals attained at this Site are protective of public health and the environment. This deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion will be effective September 22, 2008 unless EPA receives significant adverse comments by August 21, 2008. If significant adverse comments are received, EPA will publish a timely withdrawal of this direct final deletion in the **Federal Register**, informing the public that the deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1994-0001, by one of the following methods:

*Web site:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

*E-mail:* [tames.pam@epa.gov](mailto:tames.pam@epa.gov).

*Fax:* To the attention of Pamela Tames at (212) 637-3966.

*Mail:* To the attention of Pamela Tames, P.E., Remedial Project Manager,

Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, NY 10007-1866.

*Hand Delivery:* Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007-1866 (telephone: 212-637-4308). Such deliveries are only accepted during the Docket's normal hours of operation (Monday to Friday from 9 a.m. to 5 p.m.). Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID no. EPA-HQ-SFUND-1994-0001.

EPA's policy is that all comments received will be included in the Docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider CBI or otherwise protected through <http://www.regulations.gov> or via e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comments. If you send comments to EPA via e-mail, your e-mail address will be included as part of the comment that is placed in the Docket and made available on the Web site. If you submit electronic comments, EPA recommends that you include your name and other contact information in the body of your comments and with any disks or CD-ROMs that you submit. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comments. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses.

*Docket:* All documents in the Docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available Docket materials can be viewed electronically at <http://www.regulations.gov> or obtained in hard copy at:

U.S. Environmental Protection Agency, Region 2, Superfund Records Center,

290 Broadway, 18th Floor, New York, NY 10007-1866, *Phone:* 212-637-4308, *Hours:* Monday to Friday from 9 a.m. to 5 p.m. and  
New York State Department of Environmental Conservation, Region 9, 270 Michigan Avenue, Buffalo, New York 14203-2999, *Phone:* 716-851-7200.

**FOR FURTHER INFORMATION CONTACT:**

Pamela Tames, P.E., Remedial Project Manager, by mail at Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th floor, New York, NY 10007-1866; telephone at 212-637-4255; fax at 212-637-3966; or e-mail at [Tames.Pam@epa.gov](mailto:Tames.Pam@epa.gov).

**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletion
- V. Deletion Action

**I. Introduction**

EPA Region 2 is publishing this direct final deletion of the Pfohl Brothers Landfill Superfund Site (Site) from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300 (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in § 300.425(e)(3) of the NCP, a site deleted from the NPL remains eligible for remedial actions if conditions at the site warrant such action.

Because EPA considers this action to be noncontroversial and routine, this action will be effective September 22, 2008 unless EPA receives significant adverse comments by August 21, 2008. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the "Proposed Rules" section of today's **Federal Register**. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this Direct Final Deletion before the effective date of the deletion and the deletion will not take effect. EPA will, if appropriate, prepare a response to comments and continue with the deletion process on the basis of



the Notice of Intent to Delete and the comments received. In such a case, there will be no additional opportunity to comment.

Section II below explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless significant adverse comments are received during the public comment period.

## II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. In accordance with § 300.425(e)(1), EPA shall consult with the State to determine whether any of the following criteria have been met:

- i. Responsible parties or other parties have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release of hazardous substances poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

In addition, the State shall concur with the deletion, as required by § 300.425(e)(2), and the public shall be informed, as required by § 300.425(e)(4). A site which is deleted from the NPL remains eligible for remedial actions should future conditions warrant such action, as set forth in § 300.425(e)(3). Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a review of the site be conducted at least every five years after the initiation of the remedial action to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. If there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the Hazard Ranking System, a numerically-based screening system that uses information from initial, limited investigations to assess the relative potential of sites to pose a threat to human health or the environment.

## III. Deletion Procedures

The following procedures apply to deletion of the Site.

(1) EPA consulted with the State of New York prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the "Proposed Rules" section of the **Federal Register**.

(2) EPA has provided the State 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the State, through the NYSDEC, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, The Buffalo News. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments. If appropriate, EPA may then continue with the deletion process based on the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

## IV. Basis for Site Deletion

The following summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

### Background

The Site consists of a 130-acre inactive landfill and an adjacent 22-acre borrow pit located in a commercial/residential area in the Town of

Cheektowaga, Erie County, New York, approximately one mile northeast of Buffalo International Airport.

The Site is bordered by wetlands, Aero Lake, Aero Creek, and the New York State Thruway to the north. The remaining boundaries consist of Transit Road to the east, a Niagara Mohawk Power easement to the west, and residential properties (along the north side of Pfohl Road) and Conrail tracks to the south. A former New York Thruway Authority borrow area (Area A) is located just south of the New York State Thruway. The Site is bisected from west to east by Aero Drive. One disposal area is located immediately north of Aero Drive (Area B) and another disposal area is located immediately south of Aero Drive (Area C).

The Pfohl Brothers Landfill accepted municipal and industrial wastes from 1932 to 1971 from the surrounding townships, manufacturers, and utilities. The landfill was operated as a cut and fill operation, whereby waste and drums, which were filled with substances that could be spilled out, were emptied into 150-foot diameter trenches. Some of the generators of the waste have indicated that pine tar pitch, waste paints and thinners, waste cutting oils, oil-contaminated Fuller's earth, phenolic tar containing chlorinated benzenes and dioxins, and oil and capacitors laden with polychlorinated biphenyls (PCBs) were disposed of at the Site. No records were kept as to the quantity of wastes received, other than an estimated 125 tons of phenolic tar. Limited historical records indicate that no hazardous wastes were disposed of in Area A. Soil from this area was used primarily by the New York Thruway Authority for road fill material.

A preliminary assessment of the Site was performed by EPA in 1982 to determine its hazard ranking. Based upon the analytical results, which indicated that the landfill leachate contained various volatile organic compounds, semi-volatile organic compounds and metals, the Site was listed on the New York State Registry of Inactive Hazardous Waste Disposal Sites as a "Class 2 Inactive Hazardous Waste Site" in 1985.

Between 1983 and 1985, all of the residences near the Site were connected to the municipal drinking water supply system. Previously, these residents obtained drinking water from private wells.

The Site was added to the NPL on December 16, 1994 (FRL-5124-7).

### *Remedial Investigation and Feasibility Study (RI/FS)*

An RI/FS was initiated in 1988 by NYSDEC. Various levels of volatile organic compounds, semi-volatile organic compounds, PCBs, and metals were detected in the soil, groundwater, and sediment. In 1990, NYSDEC installed a fence around most of the Site.

A second RI/FS addressed Area A and the off-site groundwater contamination. Based upon the results of this investigation, it was determined that Area A was not used for the disposal of hazardous substances and significant levels of groundwater contamination were not detected.

### *Selected Remedy*

A ROD for Areas B and C was issued by NYSDEC in February 1992. The selected remedy included capping the two disposal areas, construction of a leachate collection and conveyance system, construction of a barrier wall containment system around the outside perimeter of the disposal areas, collection and disposal of the drums and phenolic tars found on-Site, and long-term monitoring of the groundwater at and near the landfill. The ROD also called for the implementation of institutional controls to protect the integrity of the containment remedy and to prevent the use of contaminated groundwater.

A ROD for Area A, issued on January 10, 1994, selected a "no-action" remedy.

### *Response Actions*

Under Orders on Consent with NYSDEC dated October 4, 1993 and April 11, 2001, the PRP Group performed the actions called for in the 1992 ROD.

The PRP Group commenced the design related to the containment system and leachate collection system in 1994; the design was approved by NYSDEC upon execution of the above-noted Order on Consent in April 2001. Detailed information on the remedial construction is available in the September 2003 Remedial Action Report.

To facilitate future development along Pfohl Road and Aero Drive, approximately 31 acres of landfilled material, consisting of approximately 365,000 cubic yards of waste located along these roads (edges of Areas B and C) were excavated and consolidated on the interior portions of Areas B and C. In addition, 9,200 cubic yards of contaminated soil and waste were excavated to protect the adjacent wetlands and consolidated on the

interior portions of Areas B and C. Post-excavation soil samples showed that the remaining soils met New York State's soil cleanup objectives, thereby eliminating all significant threats to human health and/or the environment. The excavated areas were backfilled and seeded.

Caps were constructed over the consolidated wastes in the two fill areas (approximately 70 acres in Area B and 24 acres in Area C) in conformance with 6 New York State NYCRR Part 360 closure requirements. The caps consist of a six-inch gas venting layer overlain by a layer of filter fabric, a 40-mil thick very flexible polyethylene (VFPE) liner, a 24-inch barrier protection layer of clean soil, and topped with six inches of topsoil capable of supporting vegetation. Forty-nine gas vents were installed to convey the gas from beneath the low permeability layer of the caps via the gas venting layer to the atmosphere.

The leachate collection system consists of an 8-inch diameter perforated solid collection pipe set in a wall of granular material which runs along the 10,000-foot perimeter of the disposal areas. An additional 1,000 feet of collection drain was installed in the southwest interior of Area B to promote an upward gradient from the bedrock to the overburden aquifer within the confines of the perimeter barrier containment system. All of the collected leachate is discharged directly to the Cheektowaga Publicly-Owned Treatment Works via six collection wet wells and a force main that was constructed to the sewer interceptor on Rein Road. A VFPE wall keyed into 24 inches of undisturbed clay at the bottom of the perimeter trench was installed as a vertical barrier to prevent the collection drain system from collecting clean off-Site groundwater and dewatering the adjacent wetlands. The VFPE wall was connected to the VFPE liner in the landfill cap. A Remedial Action Report documenting the completion of the Remedial Action was approved by EPA in September 2003.

The 1992 ROD called for the implementation of institutional controls to protect the integrity of the containment remedy and to prevent the use of contaminated groundwater. The restrictions were placed on Areas B and C in the form of Declarations of Covenants and Restrictions and Grant of Access signed by each of the seven owners whose parcels make up the Site. Five of the seven agreements were signed by the end of 2003 and the last two were signed in late 2005. Each Declaration requires that the owners agree not to use any on-Site

groundwater, not to construct on-Site surface water cisterns, not to access the capped areas without prior written approval of NYSDEC, not to excavate, remove, or disturb the on-Site soil without NYSDEC written approval, and not to plant trees and shrubs whose roots may breach the caps.

### *Cleanup Goals*

The implemented actions protect human health and the environment. The landfilled areas have been capped, removing potential direct contact (*i.e.*, ingestion or dermal contact of soil) exposures to the public. Institutional controls are in place to prevent potential exposures to the public, including trespassers. The potential impacts to groundwater are being addressed through the caps that reduce or prevent percolation through the landfilled areas and a barrier wall containment system around the outside perimeter of the disposal areas. The leachate collection system is discharging to an appropriate discharge facility to reduce potential exposures to the population. Groundwater monitoring data indicate that Site-related contamination is not present outside the containment system. A final Close-Out report documenting the completion of the implementation of the site remedies was issued by EPA on December 10, 2007.

### *Operation and Maintenance*

An operation and maintenance (O&M) plan, which provides for a long-term monitoring program for the cover system, the drainage system, the groundwater, and the institutional controls, was approved in February 2006. The O&M activities at the Site are being performed by the Town of Cheektowaga. Semi-annual O&M reports are reviewed by NYSDEC and EPA.

### *Five-Year Review*

Hazardous substances remain at the Site above levels that would allow for unlimited use with unrestricted exposure. Pursuant to section 121(c) of CERCLA, EPA reviews site remedies where such hazardous substances, pollutants, or contaminants remain no less often than every five years after the initiation of a remedy at a site. EPA conducted a five-year review of the Site in March 2006. The five-year review led EPA to conclude that human health and the environment are being protected by the remedial action implemented at the Site. The next five-year review is scheduled to be completed before March 2011.

### Community Involvement

Public participation activities for this Site have been satisfied as required in CERCLA sections 113(k) and 117, 42 U.S.C. 9613(k) and 9617. As part of the remedy selection process, the public was invited to comment on NYSDEC's proposed remedies. All other documents and information which EPA relied on or considered in recommending this deletion are available for the public to review at the information repositories identified above.

### Determination That the Site Meets the Criteria for Deletion From the NCP

All of the completion requirements for this Site have been met, as described in the December 2007 Final Close-Out Report. The State of New York, in a September 28, 2007 letter, concurred with the proposed deletion of this Site from the NPL.

The NCP specifies that EPA may delete a site from the NPL if "all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate." 40 CFR 300.425(e)(1)(ii). EPA, with the concurrence of the State of New York, through NYSDEC, believes that this criterion for deletion has been met. Consequently, EPA is deleting this Site from the NPL. Documents supporting this action are available in the Site files.

### V. Deletion Action

EPA, with the concurrence of the State of New York, has determined that all appropriate responses under CERCLA have been completed and that no further response actions under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL. Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective September 22, 2008 unless EPA receives adverse comments by August 21, 2008. If adverse comments are received within the 30-day public comment period of this action, EPA will publish a timely withdrawal of this Direct Final Deletion before the effective date of the deletion and the deletion will not take effect. EPA will, if appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments received. In such a case, there will be no additional opportunity to comment.

### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 30, 2008.

**George Pavlou,**

*Acting Regional Administrator, Region 2.*

■ For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

### PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; and E.O. 12580, 52 FR 2923, 3 CFR 1987 Comp., p. 193.

### Appendix B—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended under New York (NY) by removing the site name "Pfohl Brothers Landfill" and the corresponding City/County designation "Cheektowaga."

[FR Doc. E8–16478 Filed 7–21–08; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 070430095 7095 01]

RIN 0648–XH91

### Fisheries Off West Coast States; Modifications of the West Coast Commercial Salmon Fishery; Inseason Action #3 and #4

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Modification of fishing seasons; request for comments.

**SUMMARY:** NOAA Fisheries announces two inseason actions in the ocean salmon fisheries. Inseason action #3 modified the commercial fishery from Cape Falcon, Oregon, to the Oregon/California Border. Inseason action #4 modified the recreational fishery from Cape Falcon, Oregon, to Humbug Mountain, Oregon.

**DATES:** Inseason actions #3 and #4 were effective at 1615 hours local time (l.t.)

April 9, 2008. After this time these fisheries remained closed until reopened subject to the 2008 management measures and regulations which were announced, and published in the **Federal Register** (73 FR 23971, May 1, 2008).

Comments will be accepted through August 6, 2008.

**ADDRESSES:** You may submit comments, identified by 0648–AV56, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>

- Fax: 206–526–6736 Attn: Sarah McAvinchey

- Mail: D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., Seattle, WA 98115–0070 or to Rod McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Sarah McAvinchey, 206–526–4323.

**SUPPLEMENTARY INFORMATION:** In the 2007 annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), NMFS announced the commercial and recreational fisheries in the area from Cape Falcon, Oregon, to the Oregon/California Border.

On April 9, 2008, the Regional Administrator (RA) consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, Oregon Department of Fish and Wildlife and California Department of Fish and Game. Information related to catch to date, Chinook and coho catch rates, and effort data were reported. These inseason actions were taken because these fisheries were scheduled to occur in the impact area for Sacramento River fall Chinook. This stock was projected not to meet its escapement goal in 2008 and therefore consistent with the Magnuson-Stevens Act all fisheries that impact the stock were to be closed. By

closing these fisheries NMFS attempted to provide for further opportunity in the 2008 fishing season.

As a result, on April 9, 2008, the states recommended, and the RA concurred that inseason actions #3 and #4 would be effective April 9, 2008. Inseason action #3 closed the commercial fishery in the area from Cape Falcon, Oregon, to the Oregon/California border. Inseason action #4 closed the recreational fishery in the area from Cape Falcon, Oregon, to Humbug Mountain, Oregon. These areas were closed until the regulations were announced for the 2008 fishing season and published in the **Federal Register** (73 FR 23971, May 1, 2008). Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i).

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50

CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206-526-6667 and 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. These actions do not apply to other fisheries that may be operating in other areas.

#### **Classification**

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (72 FR 24539, May 3, 2007), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan at 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was

impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were available. The AA also finds good cause to waive the 30-day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the Salmon Fishery Management Plan and the current management measures. These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: July 17, 2008.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. E8-16784 Filed 7-21-08; 8:45 am]

**BILLING CODE 3510-22-S**

# Proposed Rules

Federal Register

Vol. 73, No. 141

Tuesday, July 22, 2008

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-161695-04]

RIN 1545-BE23

#### Farmer and Fisherman Income Averaging

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing final and temporary regulations under section 1301 of the Internal Revenue Code (Code) relating to the averaging of farm and fishing income in computing income tax liability. The regulations reflect changes to the law made by the American Jobs Creation Act of 2004. The regulations provide guidance to individuals engaged in a farming or fishing business who elect to reduce their tax liability by treating all or a portion of the current taxable year's farm or fishing income as if one-third of it had been earned in each of the prior three taxable years. The text of those temporary regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by October 20, 2008.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-161695-04), Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Taxpayers also may submit comments electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-161695-04).

**FOR FURTHER INFORMATION CONTACT:** Concerning submission of comments or to request a hearing, Richard Hurst at [Richard.A.Hurst@irs.counsel.treas.gov](mailto:Richard.A.Hurst@irs.counsel.treas.gov);

concerning the proposed regulations, Amy Pfalzgraf, (202) 622-4950 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

#### Background and Explanation of Provisions

Final and temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR Part 1) relating to section 1301 of the Internal Revenue Code (Code). The final and temporary regulations provide rules for averaging taxable income from a farming or fishing business under section 1301. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the final and temporary regulations explains the amendments.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (either a signed paper original with eight (8) copies or electronic) comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

#### Drafting Information

The principal author of these regulations is Amy Pfalzgraf of the Office of Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** In § 1.1301-1, paragraphs (a), (b)(1), (b)(3), (c)(1), (d)(3)(ii), (d)(4), (e), (f)(2), and (f)(4) are revised to read as follows:

#### § 1.1301-1 Averaging of farm and fishing income.

(a) [The text of the proposed amendment to § 1.1301-1(a) is the same as the text of § 1.1301-1T(a) published elsewhere in this issue of the **Federal Register**].

(b) \* \* \* (1) [The text of the proposed amendment to § 1.1301-1(b)(1) is the same as the text of § 1.1301-1T(b)(1) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

(3) [The text of the proposed amendment to § 1.1301-1(b)(3) is the same as the text of § 1.1301-1T(b)(3) published elsewhere in this issue of the **Federal Register**].

(c) \* \* \* (1) [The text of the proposed amendment to § 1.1301-1(c)(1) is the same as the text of § 1.1301-1T(c)(1) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(ii) [The text of the proposed amendment to § 1.1301-1(d)(3)(ii) is the same as the text of § 1.1301-1T(d)(3)(ii) published elsewhere in this issue of the **Federal Register**].

(4) [The text of the proposed amendment to § 1.1301-1(d)(4) is the

same as the text of § 1.1301–1T(d)(4) published elsewhere in this issue of the **Federal Register**].

(e) [The text of the proposed amendment to § 1.1301–1(e) is the same as the text of § 1.1301–1T(e) published elsewhere in this issue of the **Federal Register**].

(f) \* \* \*

(2) [The text of the proposed amendment to § 1.1301–1(f)(2) is the same as the text of § 1.1301–1T(f)(2) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

(4) [The text of the proposed amendment to § 1.1301–1(f)(4) is the same as the text of § 1.1301–1T(f)(4) published elsewhere in this issue of the **Federal Register**].

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E8–16664 Filed 7–21–08; 8:45 am]

**BILLING CODE 4830–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA–HQ–SFUND–1994–0001; FRL–8694–6]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Intent to Delete the Pfohl Brothers Landfill Superfund Site (Site) from the National Priorities List.

**SUMMARY:** EPA, Region 2, is issuing a Notice of Intent to Delete the Site, located in Cheektowaga, New York, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, 42 U.S.C. 9605, is found at Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) which EPA promulgated pursuant to section 105 of CERCLA. EPA and the State of New York, through the New York State Department of Environmental Conservation, have determined that the responsible parties have completed all appropriate remedial actions and that no further actions, other than operation and maintenance and five-year reviews, are required.

**DATES:** Comments must be received by August 21, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1994–0001, by one of the following methods:

*Web site:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

*E-mail:* [tames.pam@epa.gov](mailto:tames.pam@epa.gov).

*Fax:* To the attention of Pamela Tames at 212–637–3966.

*Mail:* To the attention of Pamela Tames, P.E., Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, NY 10007–1866.

*Hand Delivery:* Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007–1866 (*telephone:* 212–637–4308). Such deliveries are only accepted during the Docket's normal hours of operation (Monday to Friday from 9 a.m. to 5 p.m.). Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID no. EPA–HQ–SFUND–1994–0001. EPA's policy is that all comments received will be included in the Docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider CBI or otherwise protected through <http://www.regulations.gov> or via e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comments. If you send comments to EPA via e-mail, your e-mail address will be included as part of the comment that is placed in the Docket and made available on the website. If you submit electronic comments, EPA recommends that you include your name and other contact information in the body of your comments and with any disks or CD-ROMs that you submit. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comments. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses.

*Docket:* All documents in the Docket are listed in the <http://www.regulations.gov>

[www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available Docket materials can be viewed electronically at <http://www.regulations.gov> or obtained in hard copy at:

U.S. Environmental Protection Agency, Region 2, Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007–1866, *Phone:* 212–637–4308, *Hours:* Monday to Friday from 9 a.m. to 5 p.m., and  
New York State Department of Environmental Conservation, Region 9, 270 Michigan Avenue, Buffalo, New York 14203–2999; *Phone:* 716–851–7200.

#### FOR FURTHER INFORMATION CONTACT:

Pamela Tames, P.E., Remedial Project Manager, by mail at Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th floor, New York, NY 10007–1866; telephone at 212–637–4255; fax at 212–637–3966; or e-mail at [Tames.Pam@epa.gov](mailto:Tames.Pam@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the “Rules and Regulations” section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion. If we receive no adverse comment(s) on this Notice of Intent to Delete or the direct final Notice of Deletion, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Deletion Notice based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the “Rules” section of this **Federal Register**.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping

requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: June 30, 2008.

**George Pavlou,**

*Acting Regional Administrator, Region 2.*

[FR Doc. E8–16477 Filed 7–21–08; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 080702815–8819–01]

**RIN 0648–AW98**

#### **Fisheries in the Western Pacific; Western Pacific Pelagic Fisheries; Control Date; Hawaii Pelagic Charter Fishery**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Advance notice of proposed rulemaking; notification of control date; request for comments.

**SUMMARY:** NMFS announces that anyone who enters the Hawaii-based pelagic charter fishery after June 19, 2008, (the “control date”) is not guaranteed future participation in the fishery if the Western Pacific Fishery Management Council (Council) recommends, and NMFS approves, a program that limits entry into the fishery, or other fishery management measures. The Council is concerned about potential expansion of the Hawaii-based pelagic charter fishery and resultant impacts on billfish and other pelagic fishes.

**DATES:** Written comments must be received by September 22, 2008.

**ADDRESSES:** You may submit comments on this notice, identified by 0648–AW98, to either of the following addresses:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov); or
- *Mail:* William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700.

*Instructions:* All comments received are a part of the public record and will generally be posted to

[www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Brett Wiedoff, NMFS PIR, 808–944–2272.

**SUPPLEMENTARY INFORMATION:** At its 142nd meeting held from June 16–19, 2008, the Council adopted a control date of June 19, 2008, applicable to persons who are contemplating entering the Hawaii-based charter fishery for pelagic fishes. The purpose of the control date is to notify fishermen that after June 19, 2008, they may not be guaranteed access to the fishery if the Council recommends, and NMFS approves, a limited entry program or other measures to manage the fishery.

Although the Council has not yet recommended limiting new entry or imposing any other management measures in this fishery, establishment of the June 19, 2008, control date responds to the Council’s concern over significant expansion of the Hawaii-based pelagic charter fishery, and its potential to impact billfish and other pelagic fishes. This concern is focused on potential expansions of the Honokohau Harbor on the island of Hawaii, and the Ewa Marina on the island of Oahu. The expansion could provide more berths for charter fishing vessels, with resulting increases in fishing effort for pelagic fishes, such as blue marlin, *Makaira nigricans*. State of Hawaii fishery data indicate that blue marlin catch per unit effort from Kona-based pelagic charter fishing has declined significantly over the past 20 years. Similar trends are also apparent for pelagic charter fishing data from the other Hawaiian Islands.

Pelagic charter fishing, conducted from small vessels that primarily target billfishes and tunas and are chartered for a fee, is a notable component of tourism in Hawaii. Total generated revenues were estimated at \$17 million in 1990 and \$16.5 million in 1992. The industry attracted an estimated 77,000 participants in 1994, and employed approximately 400 captains and crew members in 1997. Because at least a portion of the catch is typically sold, pelagic charter fishing in Hawaii is classified as a commercial fishery, requiring State of Hawaii commercial

marine licenses and catch reporting. To date in 2008, the State of Hawaii has issued approximately 128 commercial marine licenses to vessels for pelagic charter fishing. In 2006, 119 licensed fishermen submitted fishing reports that reported a total of 9,535 charter trips, an average of 81.4 trips per vessel. In 2007, some 8,797 trips were reported, an average of 68.2 trips per vessel.

The June 19, 2008, control date supersedes one of March 16, 2007, that had been adopted previously by the Council for the same fishery (72 FR 26771, May 11, 2007). The June 19, 2008, control date also complements a control date of June 2, 2005, established for non-longline commercial pelagic fisheries in Hawaii (70 FR 47781, August 15, 2005) in response to concerns about overfishing of bigeye tuna Pacific-wide and yellowfin tuna in the central and western Pacific.

The Council and NMFS seek public comment about whether or not a control date is needed, whether this is an appropriate control date, and how the control date might be applied to a future management program for the Hawaii pelagic charter fishery, if such a program is developed by the Council and NMFS.

Control dates are intended to discourage speculative entry into fisheries, as new participants entering the fisheries after the control date are put on notice that they are not guaranteed future participation in the fisheries. Establishment of this control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the Hawaii-based pelagic charter fishery. Fishery participants are not guaranteed future participation in the fishery, regardless of their level of participation before or after the control date. The Council may choose a different control date, or it may choose a management regime that does not involve a control date. Other criteria, such as documentation of landings or sales, may be used to determine eligibility for participation in a limited access fishery. The Council or NMFS also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

#### **Classification**

This advance notice of proposed rulemaking has been determined to be not significant for the purposes of Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: July 16, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

[FR Doc. E8-16786 Filed 7-21-08; 8:45 am]

**BILLING CODE 3510-22-S**



# Notices

Federal Register

Vol. 73, No. 141

Tuesday, July 22, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Information Collection; Extension of Timber Sales

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the new information collection, Extension of Timber Sales.

**DATES:** Comments must be received in writing on or before September 22, 2008 to be assured of consideration.

Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Written comments concerning this notice should be addressed to USDA Forest Service, Director of Forest Management, 1400 Independence Avenue, SW., Mail Stop 1103, Washington, DC 20250-1103. Comments may also be sent via e-mail to [mrcta@fs.fed.us](mailto:mrcta@fs.fed.us), or via facsimile to Lathrop Smith at (202) 205-1045.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the office of the Director of Forest Management, Third Floor, Southwest Wing, Yates Building, 201 14th Street, SW., Washington, DC. Visitors are encouraged to call ahead to (202) 205-1496 to facilitate entry to the building.

**FOR FURTHER INFORMATION CONTACT:**

Lathrop Smith, Forest Management staff, at (202) 205-0858, or Richard Fitzgerald, Forest Management staff, at (202) 205-1753.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

#### SUPPLEMENTARY INFORMATION:

*Title:* Extension of Timber Sales.

*OMB Number:* 0596-New.

*Type of Request:* New.

*Abstract:* Section 8401 of the Food Conservation, and Energy Act of 2008, Public Law No. 110-246, 122 Stat. 1651, June 18, 2008 (Section 8401), provides several different relief options for timber sale purchasers holding contracts with rates significantly higher than current timber market rates due to a drastic reduction in forest products markets. The relief options include: (a) Contract cancellation or rate redetermination, (b) substitution of the Bureau of Labor statistics producer price index specified in the contract, (c) rate redetermination following substitution of index, (d) extension of contracts using the hardwood lumber index, and (e) extension of Market-Related Contract term Addition time limit for certain contracts. To obtain the benefits of these options, National Forest System timber sale purchasers are required to provide certain information not previously authorized for collection by OMB. Depending on the benefits sought this may include: (1) A Request for Relief and Release of Liability Statement on form FS-2400-71, (2) a Contract Cancellation and Release of Liability Agreement on form FS-2400-70, and (3) for purchasers seeking a change in the index used for determining market-related contract term additions and emergency rate redeterminations, identification by the purchaser, in writing, how much of the contract timber volume will be processed into softwood lumber, hardwood lumber and/or wood chip products.

Forms FS-2400-70 and FS-2400-71 become legally binding documents upon signing by the purchaser and Forest Service and as such must be submitted by the purchaser in hard copy with original signatures. The information regarding identification of products the purchaser intends to produce from the sale when seeking a change in index may be submitted by the purchaser in hard copy or electronically by facsimile.

Information identified above will be collected from purchasers by Forest Service contracting officers who will use the information to determine eligibility for the benefit requested. The information requested is not available from any other source and is unique to a single event in the life of a contract.

The information is not used for any statistical purposes. No confidential information is involved and no information of a sensitive nature is collected. The information requested is readily available to timber sale purchasers and does not require any record keeping.

Without the release of liability statements and agreements the government is vulnerable to lawsuits from purchasers seeking compensation or damages resulting from conditions or events that were not part of the original contract. For example, a purchaser holding a contract that is extended pursuant to the Farm Bill past the original termination date and that subsequently has to be unilaterally modified during the extension period because of a newly listed endangered species, may seek damages against the government resulting from the modification if the extension was granted without a limited liability agreement.

The index used in contracts to determine when a market-related contract term addition and/or emergency rate redetermination should occur has long term implications to the contract. Prior to changing the index the contract record must contain written documentation that the purchaser initiated the request to change the index, including documentation of the products it intended to produce from the timber at the time the request was made. Without this documentation a purchaser could allege that the government unilaterally and inappropriately changed the index.

*Estimated Annual Burden:* 10 minutes per response.

*Type of Respondents:* Individuals, large and small businesses, and corporations.

*Estimated Number of Respondents:* 1030.

*Estimate Number of Responses per Respondent:* 1.

*Estimated Number of Total Annual Responses:* 1230 (1030 FS-2400-71, 100 FS-2400-70, and 100 Classification of Volume).

*Estimated Total Annual Burden on Respondents:* 206 hours.

*Comment is invited on:* (1) Whether the proposed collection of information is necessary for the stated purposes or the proper performance of the functions of the agency, including whether the

information shall have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including name and address when provided, will be summarized and included in the request for Office of Management and Budget approval. All comments also will become a matter of public record.

Dated: July 16, 2008.

**Joel D. Holtrop,**

*Deputy Chief, National Forest System.*

[FR Doc. E8-16785 Filed 7-21-08; 8:45 am]

**BILLING CODE 3410-11-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Open House To Provide Information on the Proposed Rule for the Management of Roadless Areas in the State of Colorado

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** There will be an open house in Washington, DC to discuss the proposed rule for the management of roadless areas on National Forest System lands in the State of Colorado.

**DATES:** The open house will be held July 29, 2008, from 5 p.m. to 9 p.m.

**ADDRESSES:** The open house will be held at the U. S. Department of Agriculture, Whitten Building, Whitten Building Patio, 1400 Independence Avenue, SW., Washington, DC. Comments on the proposed rule may be sent via e-mail to [COComments@fsroadless.org](mailto:COComments@fsroadless.org). Comments also may be submitted via the world wide Web/Internet at <http://www.regulations.gov>. Written comments concerning this notice should be addressed to Roadless Area Conservation-Colorado, P.O. Box 162909, Sacramento, CA 95916-2909, or via facsimile to 916-456-6724. All comments, including names and addresses, when provided, are placed in the record and are available for public inspection and copying. To inspect

public comments, please contact Kathy Kurtz at 303-275-5083.

**FOR FURTHER INFORMATION CONTACT:** Kathy Kurtz, Colorado Roadless Rule Team Leader, at 303-275-5083.

Individuals using telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m. Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The public is invited to an open house with Forest Service personnel available to provide information and answer questions about the proposed Colorado Roadless Rule. Attendees are encouraged to submit written public comment at the open house, but there will be no time allotted at the open house for oral comments.

Meeting attendees will need to pass through U.S. Department of Agriculture security in order to enter the building. You will need photo identification to enter the building. Attendees are encouraged to provide their names to security prior to the meeting in order to gain quicker access to the building. Attendees can submit their names to a comment line by calling 202-205-1776. In the message you should identify yourself as wanting to attend the public meeting on the Colorado rule, and then both say and spell your name. Any bags that attendees bring will have to go through screening; you are, therefore, encouraged not to bring bags in order to expedite the screening process.

A copy of the proposed rule, draft environmental impact statement (DEIS), the DEIS summary, dates for public meetings in Colorado, and other information related to this rulemaking will be available at the national roadless Web site (<http://www.roadless.fs.fed.us>). Reviewers may request printed copies or compact disks of the DEIS and the summary by writing to Colorado Roadless Team/Planning, USDA Forest Service, Rocky Mountain Regional Office, 740 Simms Street, Golden, CO, 80401-4720, or by e-mail to [comments-rocky-mountain-regional-office@fs.fed.us](mailto:comments-rocky-mountain-regional-office@fs.fed.us), or by Fax to 303-275-5134. When ordering, requesters must specify their address, if they wish to receive the summary or full set of documents, and if the material should be provided in print or compact disk.

Dated: July 17, 2008.

**Charles L. Myers,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. E8-16783 Filed 7-21-08; 8:45 am]

**BILLING CODE 3410-11-P**

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### The Secretary of Agriculture's Determination of the Primary Purpose of Pennsylvania's Upper Makefield Township Riparian Restoration and Preservation Grant Program

**AGENCY:** Natural Resources Conservation Service (NRCS), USDA.

**ACTION:** Notice of Determination.

**SUMMARY:** NRCS is providing public notice that the Secretary of Agriculture has determined the payments made under Pennsylvania's Upper Makefield Township Riparian Restoration and Preservation Grant Program are primarily for the purpose of protecting or restoring the environment. NRCS was assigned technical and administrative responsibility for reviewing the Upper Makefield Township Riparian Restoration and Preservation Grant Program and making appropriate recommendations for the Secretary's determination of primary purpose. This determination is in accordance with section 126 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 126), and permits recipients of cost-share payments to exclude from gross income to the extent allowed by the Internal Revenue Service.

**FOR FURTHER INFORMATION CONTACT:** Township Solicitor, Upper Makefield Township, 1076 Eagle Road, Newtown, Pennsylvania 18940; or NRCS, Financial Assistance Programs Division, Post Office Box 2890, Washington, DC 20013.

**SUPPLEMENTARY INFORMATION:** Under Section 126(a)(10) of the Internal Revenue Code, gross income does not include the "excludable portion" of payments received under any program of a State under which payments are made to individuals primarily for the purpose of protecting or restoring the environment. In general, a payment for selected conservation practices is exempt from Federal taxation, if it meets three tests: (1) Was for a capital expense; (2) does not substantially increase the operator's annual income from the property for which it is made; and (3) the Secretary of Agriculture certified that the payment was made primarily for conserving soil and water resources, protecting or restoring the environment, improving forests, or providing habitat for wildlife. The Secretary of Agriculture evaluates a conservation program on the basis of criteria set forth in 7 CFR part 14, and makes a "primary purpose" determination for the payments made under the program. The

objective of the determinations made under part 14 is to provide maximum conservation, environmental protection or restoration, forestry improvement, and wildlife benefits to the general public from the operation of applicable programs. Final determinations are made on the basis of program, category of practices, or individual practices. Following a primary purpose determination by the Secretary of Agriculture, the Secretary of the Treasury determines if the payments made under the conservation program substantially increase the annual income derived from the property benefited by the payments.

#### Determination

The Upper Makefield Township Riparian Restoration and Preservation Grant Program will use grant funds to work with landowners in the Houghs Creek watershed to implement practices in an established riparian buffer zone that is 200 feet either side of the creek stream channel. The riparian zone goals are to reduce the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances from reaching the water; provide shade along the creek's watercourses to moderate stream temperature and protect fish habitat; provide streambank stability to control sediment and erosion; and conserve existing natural features important for the protection of headwater areas, floodplains, springs, streams, woodlands, and prime wildlife habitats.

By promoting the establishment of tree plantings, restorative vegetation, and streambank repair in the riparian buffer zone, the Riparian Restoration and Preservation Grant Program will provide payments to landowner participants that are primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing habitat for wildlife.

A "Record of Decision" has been prepared and is available upon request from NRCS, Financial Assistance Programs Division, Post Office Box 2890, Washington, DC 20013.

Signed in Washington, DC, on July 1, 2008.

**Arlen L. Lancaster,**

*Chief, Natural Resources Conservation Service.*

[FR Doc. E8-16748 Filed 7-21-08; 8:45 am]

BILLING CODE 3410-16-P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Action Affecting Export Privileges; Ankair

In the Matter of:

Galaxy Aviation Trade Company Ltd., 15 Moreland Court, Lyndale Avenue, Finchley Road, London, UK, NW2 2PJ;  
Hooshang Seddigh, 15 Moreland Court, Lyndale Avenue, Finchley Road, London, UK, NW2 2PJ;  
Hamid Shaken Hendi, 5th Floor, 23 Nafisi Avenue, Shahrak Ekbatan, Karaj Special Road, Tehran, Iran;  
Hossein Jahan Peyma, 2/1 Makran Cross, Heravi Square, Moghan Ave, Pasdaran Cross, Tehran, Iran;  
Iran Air, Second Floor, No. 23 Nafisi Avenue, Ekbatan, Tehran, Iran;  
Ankair, Yesilkoy Asfalti Istanbul No. 13/4, Florya, Istanbul, Turkey TR-34810, Respondents.

#### Order Modifying Temporary Denial of Export Privileges of Respondent Ankair

On June 6, 2008, I issued an Order in accordance with Section 766.24 of the Export Administration Regulations ("EAR" or the "Regulations"), temporarily denying the export privileges for 180 days of the following persons for all items subject to the EAR: Galaxy Aviation Trade Company Ltd. ("Galaxy"), Hooshang Seddigh, Hamid Shaken Hendi, Hossein Jahan Peyma (Galaxy's shareholders), and Iran Air. The temporary denial order ("TDO") also denied certain export privileges under the EAR of Ankair, Yesilkoy Asfalti Istanbul No. 13/4, Florya, Istanbul, Turkey TR-34810 ("Ankair"), specifically, any transactions involving Boeing 747, manufacturer serial number 24134, tail number TC-AKZ. The TDO was published in the **Federal Register** on June 17, 2008 (73 FR 34249), and unless renewed in accordance with Section 766.24(d) of the Regulations, will expire on December 3, 2008.

The TDO was issued based on evidence presented to me by the Office of Export Enforcement ("OEE") that the Respondents were attempting to re-export a U.S. origin Boeing 747, manufacturer serial number 24134, tail number TC-AKZ, from Turkey to Iran without U.S. Government authorization and that it therefore was necessary in order to prevent an imminent violation of the Regulations.

Subsequent to the issuance of the TDO, OEE has requested that I modify the TDO as to Ankair to cover all exports or re-exports of items subject to the EAR. I have been presented evidence indicating that Ankair has violated the TDO and that Ankair has engaged in and/or is about to engage in

or attempt further violations of the EAR involving the re-export of additional U.S. origin aircraft to Iran without U.S. Government authorization. Modification of the TDO to cover all items subject to the EAR is necessary to prevent further evasion of the TDO and to give companies in the United States and abroad notice to cease dealing with the Ankair in U.S. origin items so as to reduce the likelihood of subsequent exports or re-exports contrary to export control requirements.

*It is therefore ordered:*

*First*, that Ankair, Yesilkoy Asfalti Istanbul No. 13/4, Florya, Istanbul, Turkey, TR 34810 ("Denied Person") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Export Administration Regulations ("EAR"), or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

*Second*, that no person may, directly or indirectly, do any of the following:

A. Export or re-export to or on behalf of any Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by any Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby any Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from any Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from any Denied Person in the United States any item subject to the EAR with knowledge or reason to know

that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by any Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by any Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

*Third*, that after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to any of the Respondents by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

*Fourth*, that this Order does not prohibit any export, re-export, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign produced direct product of U.S.-origin technology.

In accordance with the provisions of Section 766.24(e) of the EAR, Ankair may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard AU Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. The Respondents may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on Ankair and shall be published in the **Federal Register**.

This Order is effective upon publication in the **Federal Register** and shall remain in effect until the expiration of the TDO on December 3, 2008, unless renewed in accordance with the Regulations.

Entered this 10th day of July, 2008.

**Darryl W. Jackson,**  
Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. E8-16425 Filed 7-21-08; 8:45 am]

BILLING CODE 3510-DT-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

(C-570-911)

#### **Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC), the Department is issuing a countervailing duty order on circular welded carbon quality steel pipe (CWP) from the People's Republic of China (PRC). On July 15, 2008, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry. *See Circular Welded Carbon-Quality Steel Pipe from China*, USITC Pub. 4019, Investigation Nos. 701-TA-447 and 731-TA-1116 (Final) (July 2008).

**EFFECTIVE DATE:** July 22, 2008.

**FOR FURTHER INFORMATION CONTACT:** Shane Subler and Damian Felton at (202) 482-0189 and (202) 482-0133, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### **Background**

On June 5, 2008, the Department published its final determination in the countervailing duty investigation of CWP from the PRC. *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*Final Determination*).

On July 15, 2008, the ITC notified the Department of its final determination pursuant to sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured by reason of subsidized imports of subject merchandise the PRC. The ITC also determined that critical circumstances do not exist. *See Circular Welded Carbon-Quality Steel Pipe from China* (Investigation Nos. 701-TA-447 and 731-TA-1116 (Final), USITC Publication 4019, July 2008).

#### **Scope of the Order**

The scope of this order covers certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (e.g., black, galvanized, or painted), end finish (e.g., plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (e.g., ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

Specifically, the term "carbon quality" includes products in which (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;
- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;
- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;
- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium;
- (xiii) 0.15 percent of vanadium; or
- (xiv) 0.15 percent of zirconium.

Standard pipe is made primarily to American Society for Testing and Materials (ASTM) specifications, but can be made to other specifications. Standard pipe is made primarily to ASTM specifications A-53, A-135, and A-795. Structural pipe is made primarily to ASTM specifications A-252 and A-500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. This is often the case, for example, with fence tubing. Pipe multiple-stenciled to a standard and/or structural specification and to any other specification, such as the American Petroleum Institute (API) API-5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted surface finish; or has a threaded and/or coupled end finish. (The term "painted" does not include coatings to inhibit rust in transit, such as varnish, but includes coatings such as polyester.)

The scope of this order does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) mechanical tubing, whether or not cold-drawn; (c) finished electrical conduit; (d) finished scaffolding; (e) tube and pipe hollows for redrawing; (f) oil country tubular goods produced to API specifications; and (g) line pipe produced to only API specifications.

The pipe products that are the subject of this order are currently classifiable in HTSUS statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90, 7306.50.10.00, 7306.50.50.50, 7306.50.50.70, 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. However, the product description, and not the Harmonized Tariff Schedule of the United States ("HTSUS") classification, is dispositive of whether merchandise imported into the United States falls within the scope of the order.

#### Amendment to the Final Determination

In accordance with sections 705(d) and 777(i)(1) of the Act, on June 5, 2008, the Department published its notice of final affirmative countervailing duty determination in the countervailing duty investigation of CWP from the PRC. *See Final Determination*, 73 FR 31966, and corresponding "Issues and Decision Memorandum" (May 29, 2008). On June 16, 2008, the petitioners<sup>1</sup> filed timely allegations stating that the Department made six ministerial errors in its final determination. No rebuttal comments were received.

After analyzing all petitioners' comments, we have determined, in accordance with 19 CFR 351.224(e), that we made four ministerial errors in our calculations performed for the final determination. In addition, the Department itself discovered it made two additional ministerial errors.<sup>2</sup>

In summary, the petitioners contended that the Department erred in making its *Final Determination* by making two distinct clerical errors in calculating the benefit from the

provision of hot-rolled steel (HRS) at less than adequate remuneration when it did not adjust the *SteelBenchmarker* to include delivery charges and import duties and did not adjust the benchmark for a certain type<sup>3</sup> of HRS to include Chinese import duties. The Department did not make either of the adjustments requested because they did not involve ministerial errors. *See Ministerial Error Allegations Memo* at pages 2–3.

Second, the petitioners contended that the Department made several errors in the calculation of benefit from East Pipe's policy loans including using an incorrect amount of reported interest for one loan, incorrectly calculating the number of days outstanding for another loan, and impermissibly offsetting the benefit from the specific loans where the Department found a benefit in accordance with 19 CFR 351.505(a). The Department agreed with the petitioners that these three ministerial errors were committed with respect to East Pipe's policy loans and corrected each of the errors accordingly. *See Ministerial Error Allegations Memo* at pages 3–5.

Third, the petitioners contended that with respect to Kingland, the Department did not use the correct sales denominator to account for the collapsing of Kingland companies.<sup>4</sup> The Department agreed, in part, with the petitioners that some ministerial errors were committed with respect to Kingland's sales denominator. However, other requested adjustments were not ministerial errors, because, for example, there was not enough information on the record to make these other adjustments. Therefore, the Department only corrected those errors it found to be ministerial errors. *See Ministerial Error Allegations Memo* at page 6.

Finally, the Department itself found two additional ministerial errors. In our calculation to measure the adequacy of remuneration from government—provided HRS we inadvertently did not use the actual import price paid as a benchmark in the month(s) of purchase, and we did not average that actual import price with the *SteelBenchmarker* price for the month(s), and have made corrections accordingly. *See Ministerial Error Allegations Memo* at pages 6–7. Additionally, we failed to make a minor correction presented at verification regarding East Pipe's interest paid on one loan (separate from the loan noted

above). *See Ministerial Error Allegations Memo* at pages 3–4.

As a result of correcting these errors, the countervailing duty calculated for Weifang East Steel Pipe Co., Ltd. ("East Pipe") has changed from 29.57 percent to 29.62 percent, the countervailing duty calculated for Zhejiang Kingland Pipeline and Technologies Co., Ltd. ("Kingland Pipeline"), and affiliated companies (collectively, "Kingland," or "Kingland Companies") has changed from 44.86 percent to 44.93 percent, the countervailing duty calculated for Tianjin Shuangjie Steel Pipe Co., Ltd.; Tianjin Shuangjie Steel Pipe Group Co., Ltd.; Tianjin Wa Song Imp. & Exp. Co., Ltd.; and Tianjin Shuanglian Galvanizing Products Co., Ltd. (collectively, "Shuangjie") has changed from 615.92 percent to 616.83 percent, and the countervailing duty calculated for "All Others" has changed from 37.22 percent to 37.28 percent. Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination in the countervailing duty investigation of CWP from the PRC.

#### Countervailing Duty Order

On July 15, 2008, in accordance with section 705(d) of the Act, the ITC notified the Department of its final determination that the industry in the United States producing CWP is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of CWP from the PRC.

Therefore, countervailing duties will be assessed on all unliquidated entries of CWP from the PRC entered, or withdrawn from warehouse, for consumption on or after November 13, 2007, the date on which the Department published its preliminary affirmative countervailing duty determination in the **Federal Register**,<sup>5</sup> and before March 12, 2008, the date the Department instructed the U.S. Customs and Border Protection (CBP) to discontinue the suspension of liquidation in accordance with section 703(d) of the Act. Section 703(d) states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Therefore, entries of CWP made on or after March 12, 2008, and prior to the date of publication of the ITC's final determination in the **Federal Register**

<sup>1</sup> The petitioners in this case are the Ad Hoc Coalition for Fair Pipe Imports from China and the United Steel Workers.

<sup>2</sup> See generally Memorandum to Susan Kuehbach, Director, Office 1, AD/CVD Operations from Nancy Decker, Program Manager, Office 1, AD/CVD Operations, Re: "Countervailing Duty Investigation: Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China: Ministerial Error Allegations" (July 2, 2008) ("Ministerial Error Allegations Memo").

<sup>3</sup> The type of HRS is proprietary information. Specifics on type of HRS can be found in the proprietary version of the *Ministerial Error Allegations Memo*.

<sup>4</sup> See *Ministerial Error Allegations Memo* at page 6 for the specific factors used in the determination of Kingland's sales denominator since the factors are proprietary information.

<sup>5</sup> See *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 63875 (Nov. 13, 2007) (*Preliminary Determination*).

are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective March 12, 2008, of the suspension of liquidation.

With regard to the ITC's negative critical circumstances determination, we will instruct CBP to lift suspension, release any bond or other security, and refund any cash deposit made to secure the payment of antidumping duties with

respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after August 15, 2007, but before November 13, 2007 (i.e., the 90 days prior to the date of publication of the *Preliminary Determination*).

In accordance with section 706 of the Act, the Department will direct CBP to reinstitute the suspension of liquidation for CWP from the PRC, effective the date

of publication of the ITC's notice of final determination in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise as noted below.

Exporter/Manufacturer	Net Subsidy Rate
Weifang East Steel Pipe Co., Ltd. ....	29.62%
Zhejiang Kingland Pipeline and Technologies Co., Ltd., Kingland Group Co., Ltd, Beijing Kingland Centruy Technologies Co., Zhejiang Kingland Pipeline Industry Co., Ltd., and Shanxi Kingland Pipeline Co., Ltd. ....	44.93%
Tianjin Shuangjie Steel Pipe Co., Ltd.; Tianjin Shuangjie Steel Pipe Group Co., Ltd.; Tianjin Wa Song Imp. & Exp. Co., Ltd.; and Tianjin Shuanglian Galvanizing Products Co., Ltd. ....	616.83%
All Others .....	37.28%

This notice constitutes the countervailing duty order with respect to CWP from the PRC, pursuant to section 706(a) of the Act. Interested parties may contact the Department's CRU, Room 1117 of the Main Commerce Building, for copies of an updated list of countervailing duty orders currently in effect.

This order is issued and published in accordance with section 706(a) of Act, 19 CFR 351.224(e), and 19 CFR 351.211(b).

Dated: July 16, 2008.

**David M. Spooner,**  
Assistant Secretary for Import  
Administration.

[FR Doc. E8-16753 Filed 7-21-08; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-910

#### Notice of Antidumping Duty Order: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China

**AGENCY:** Import Administration,  
International Trade Administration,  
Department of Commerce.

**EFFECTIVE DATE:** July 22, 2008.

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (the "Department") and the International Trade Commission ("ITC"), the Department is issuing an antidumping duty order on circular welded carbon quality steel pipe ("CWP") from the People's Republic of China ("PRC"). On July 15, 2008, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry. *See Circular*

*Welded Carbon Quality Steel Pipe from China*, Investigation Nos. 701-TA-447 and 731-TA-1116 (Final), USITC Publication 4019 (July 2008).

#### FOR FURTHER INFORMATION CONTACT:

Thomas Martin or Maisha Cryor, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3936 or (202) 482-5831, respectively.

#### SUPPLEMENTARY INFORMATION:

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the "Act"), on June 5, 2008, the Department published the *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 31970 (June 5, 2008) ("Final Determination").

#### Scope of Order

The merchandise subject to this proceeding is certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (e.g., black, galvanized, or painted), end finish (e.g., plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (e.g., ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

Specifically, the term "carbon quality" includes products in which (a) iron predominates, by weight, over each of the other contained elements; (b) the

carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;
- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;
- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;
- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium;
- (xiii) 0.15 percent of vanadium; or
- (xiv) 0.15 percent of zirconium.

Standard pipe is made primarily to American Society for Testing and Materials ("ASTM") specifications, but can be made to other specifications. Standard pipe is made primarily to ASTM specifications A-53, A-135, and A-795. Structural pipe is made primarily to ASTM specifications A-252 and A-500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. This is often the case, for example, with fence tubing. Pipe multiple-stenciled to a standard and/or structural specification and to any other specification, such as the American Petroleum Institute ("API") API-5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted surface finish; or has a threaded and/or coupled end finish. (The term "painted" does not include coatings to inhibit rust in transit, such as varnish, but includes coatings such as polyester.)

The scope of this investigation does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) mechanical tubing, whether or not cold-drawn; (c) finished electrical conduit; (d) finished scaffolding; (e) tube and pipe hollows for redrawing; (f) oil country tubular goods produced to API specifications; and (g) line pipe produced to only API specifications.

The pipe products that are the subject of this investigation are currently classifiable in HTSUS statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90, 7306.50.10.00, 7306.50.50.50, 7306.50.50.70, 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. However, the product description, and not the Harmonized Tariff Schedule of the United States ("HTSUS") classification, is dispositive of whether merchandise imported into the United States falls within the scope of the investigation.

#### Antidumping Duty Order

On July 15, 2008, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the PRC. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection ("CBP") to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of CWP from the PRC. These antidumping duties will be assessed on all unliquidated entries of

CWP, except for entries of merchandise exported and produced by Jiangsu Yulong Steel Pipe Co., Ltd. ("Yulong"), from the PRC entered, or withdrawn from the warehouse, for consumption on or after January 15, 2008, the date on which the Department published its preliminary determination. *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 2445 (January 15, 2008) ("Preliminary Determination"). Antidumping duties will be assessed on all unliquidated entries of subject merchandise exported by Yulong entered, or withdrawn from warehouse, for consumption on or after April 24, 2008, the date on which the Department published the amended preliminary determination. *See Amended Preliminary Determination of Sales at Less Than Fair Value: Circular Welded Carbon Quality Steel Pipe From the People's Republic of China*, 73 FR 22130 (April 24, 2008) ("Amended Preliminary Determination").

With regard to the ITC's negative critical circumstances determination, we will instruct CBP to lift suspension, release any bond or other security, and refund any cash deposit made to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after October 17, 2007, but before January 15, 2008 (*i.e.*, the 90 days prior to the date of publication of the *Preliminary Determination*). In specific regard to Yulong, we will instruct CBP to lift suspension, release any bond or other security, and refund any cash deposit made to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after January 25, 2008, but before April 24, 2008 (*i.e.*, the 90 days prior to the date of publication of the *Amended Preliminary Determination*).

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of CWP, we extended the four-month period to no more than six months. *See Preliminary Determination*, 73 FR at 2446. In this investigation, the six-month period beginning on the date of the publication of the *Preliminary Determination* (*i.e.*, January 15, 2008) ends on July 13, 2008. Furthermore, section 737 of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of CWP from the PRC entered, or withdrawn from warehouse, for consumption after July 13, 2008, and before the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will continue on or after the date of publication of the ITC's final injury determination in the **Federal Register**.

Effective on the date of publication of the ITC's final affirmative injury determination, CBP, pursuant to section 735(c)(3) of the Act, will require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as listed below. The "PRC-wide" rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-Average Margin
Beijing Sai Lin Ke Hardware Co., Ltd. ....	Xuzhou Guang Huan Steel Tube Products Co., Ltd.	69.20
Wuxi Fastube Industry Co., Ltd. ....	Wuxi Fastube Industry Co., Ltd.	69.20
Jiangsu Guoqiang Zinc-Plating Industrial Co., Ltd. ....	Jiangsu Guoqiang Zinc-Plating Industrial Co., Ltd.	69.20
Wuxi Eric Steel Pipe Co., Ltd. ....	Wuxi Eric Steel Pipe Co., Ltd.	69.20
Qingdao Xiangxing Steel Pipe Co., Ltd. ....	Qingdao Xiangxing Steel Pipe Co., Ltd.	69.20
Wah Cit Enterprises ....	Guangdong Walsall Steel Pipe Industrial Co., Ltd.	69.20
Guangdong Walsall Steel Pipe Industrial Co., Ltd. ....	Guangdong Walsall Steel Pipe Industrial Co., Ltd.	69.20
Hengshui Jinghua Steel Pipe Co., Ltd. ....	Hengshui Jinghua Steel Pipe Co., Ltd.	69.20
Zhangjiagang Zhongyuan Pipe-Making Co, Ltd. ....	Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.	69.20
Weifang East Steel Pipe Co., Ltd. ....	Weifang East Steel Pipe Co., Ltd.	69.20
Shijiazhuang Zhongqing Imp & Exp Co., Ltd. ....	Bazhou Zhuofa Steel Pipe Co., Ltd.	69.20
Tianjin Baolai Int'l Trade Co., Ltd. ....	Tianjin Jinghai County Baolai Business and Industry Co., Ltd.	69.20



Exporter	Producer	Weighted-Average Margin
Wai Ming (Tianjin) Int'l Trading Co., Ltd. ....	Bazhou Dong Sheng Hot-dipped Galvanized Steel Pipes Co., Ltd.	69.20
Kunshan Lets Win Steel Machinery Co., Ltd. ....	Kunshan Lets Win Steel Machinery Co., Ltd.	69.20
Shenyang Boyu M/E Co., Ltd. ....	Bazhou Dong Sheng Hot-dipped Galvanized Steel Pipes Co., Ltd.	69.20
Dalian Brollo Steel Tubes Ltd. ....	Dalian Brollo Steel Tubes Ltd.	69.20
Benxi Northern Pipes Co., Ltd. ....	Benxi Northern Pipes Co., Ltd.	69.20
Shanghai Metals & Minerals Import & Export Corp. ....	Huludao Steel Pipe Industrial Co.	69.20
Shanghai Metals & Minerals Import & Export Corp. ....	Benxi Northern Pipes Co., Ltd.	69.20
Huludao Steel Pipe Industrial Co. ....	Huludao Steel Pipe Industrial Co.	69.20
Tianjin Xingyuda Import & Export Co., Ltd. ....	Tianjin Lifengyuanda Steel Group	69.20
Tianjin Xingyuda Import & Export Co., Ltd. ....	Tianjin Xingyunda Steel Pipe Co.	69.20
Tianjin Xingyuda Import & Export Co., Ltd. ....	Tianjin Lituo Steel Products Co.	69.20
Tianjin Xingyuda Import & Export Co., Ltd. ....	Tangshan Fengnan District Xinlida Steel Pipe Co., Ltd.	69.20
Jiangyin Jianye Metal Products Co., Ltd. ....	Jiangyin Jianye Metal Products Co., Ltd.	69.20
Rizhao Xingye Import & Export Co., Ltd. ....	Shandong Xinyuan Group Co., Ltd.	69.20
Tianjin No. 1 Steel Rolled Co., Ltd. ....	Tianjin Hexing Steel Co., Ltd.	69.20
Tianjin No. 1 Steel Rolled Co., Ltd. ....	Tianjin Ruitong Steel Co., Ltd.	69.20
Tianjin No. 1 Steel Rolled Co., Ltd. ....	Tianjin Yayi Industrial Co.	69.20
Kunshan Hongyuan Machinery Manufacture Co., Ltd. ....	Kunshan Hongyuan Machinery Manufacture Co., Ltd.	69.20
Qingdao Yongjie Import & Export Co., Ltd. ....	Shandong Xinyuan Group Co., Ltd.	69.20
PRC-Wide Entity .....	.....	85.55

This notice constitutes the antidumping duty order with respect to CWP from the PRC pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 1217 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: July 16, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-16767 Filed 7-21-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before August 11, 2008. Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce,

Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 2104.

*Docket Number: 08-033.* Applicant: University of Connecticut, 97 N. Eagleville Rd., Storrs, CT 06269-3136. Instrument: Electron Microscope, Model Tecnai G2 Spirit TWIN. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument is intended to be used to perform low dose and/or cryogenic imaging of soft matter and other beam-sensitive materials. It will also be used in the research of polymeric materials, gels, biomaterials and novel catalytic materials. Further, the instrument will have the ability to observe the mechanical response of nanomaterials, piezoceramics and other materials. Application accepted by Commissioner of Customs: June 25, 2008.

*Docket Number: 08-034.* Applicant: Harvard Medical School, 240 Longwood Avenue, Boston, MA 02115. Instrument: Electron Microscope, Model Tecnai G2 F20. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument is intended to be used to seek high resolution information from certain biological specimens such as membrane proteins, viruses, specialized sub-cellular organelles such as membrane-traffic intermediates and kinetochores. This information will be used to determine high resolution structures of sub-cellular assemblies in order to understand such fundamental cellular processes as mitosis, transport of water and ions across membranes and entry of viruses and other pathogens

into cells. Application accepted by Commissioner of Customs: July 9, 2008.

Date: July 16, 2008

**Faye Robinson,**

*Director, Statutory Import Programs Staff.*

[FR Doc. E8-16763 Filed 7-21-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**A-549-502**

#### Circular Welded Carbon Steel Pipes and Tubes From Thailand: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review:

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** July 22, 2008.

**FOR FURTHER INFORMATION CONTACT:** Myrna Lobo or Jacqueline Arrowsmith, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14<sup>th</sup> Street & Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-2371 or (202) 482-5255, respectively.

#### Background

On April 7, 2008, the Department published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand. *See Circular Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results of*



*Antidumping Duty Administrative Review*, 73 FR 18749 (April 7, 2008). The current deadline for the final results of this review is August 5, 2008.

#### **Extension of Time Limit for Final Results of Review**

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the final results in an administrative review within 120 days after the date on which the preliminary results were published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results up to 180 days from the date of publication of the preliminary results.

The Department finds that it is not practicable to complete the review within the original time frame due to the further analysis required in this case. In particular, the Department requested further information on Saha Thai's claim for a duty drawback adjustment, and the Department must consider Saha Thai's response, which was received after the issuance of the preliminary results. Therefore, completion of this review is not practicable by the original due date of August 5, 2008. Consequently, in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations, the Department is extending the time limit for the completion of the final results of the review for an additional 60 days. Since the 60-day extension would result in the deadline for the final results falling on October 4, 2008, which is a Saturday, the new deadline for the final results will be the next business day, October 6, 2008. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: July 16, 2008.

**Stephen J. Claeyes,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E8-16768 Filed 7-21-04; 8:45 am]

**BILLING CODE 3510-DS-S**

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

**A-570-904**

#### **Certain Activated Carbon From the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** July 22, 2008.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bertrand, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-3207.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On June 4, 2008, the Department of Commerce (the "Department") published a notice of initiation of an administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China ("PRC") covering the period October 11, 2006 March 31, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 31813 (June 4, 2008) ("Initiation").

On June 26, 2008, Calgon Carbon Corporation and Norit Americas Inc. (the "Petitioners") withdrew their request for an administrative review for the following 57 companies: Actview Carbon Technology Co., Ltd.; Alashan Yongtai Activated Carbon Co., Ltd.; Beijing Hibridge Trading Co., Ltd.; Changji Hongke Activated Carbon Co., Ltd.; China Nuclear Ningxia Activated Carbon Plant; Da Neng Zheng Da Activated Carbon Co., Ltd.; Datong Carbon Corporation, Datong Changtai Activated Carbon Co., Ltd.; Datong City Zuoyun County Activated Carbon Co., Ltd.; Datong Fu Ping Activated Carbon Co., Ltd.; Datong Fuping Activated Carbon Co., Ltd.; Datong Guanghua Activated Co., Ltd.; Datong Huanqing Activated Carbon Co., Ltd.; Datong Huiyuan Cooperative Activated Carbon Plant; Datong Kangda Activated Carbon Factory; Datong Runmei Activated Carbon Factory; Datong Tianzhao Activated Carbon Co., Ltd.; DaTong Tri-Star & Power Carbon Plant Ltd.; Datong Weidu Activated Carbon Co., Ltd.; Datong Zuoyun Biyun Activated Carbon Co., Ltd.; Dushanzi Chemical Factory; Fangyuan Carbonization Co., Ltd.; Fu

Yuan Activated Carbon Co., Ltd.; Hegongye Ninxia Activated Carbon Factory; Hongke Activated Carbon Co., Ltd.; Jiaocheng Xinxin Purification Material Co., Ltd.; Jing Mao (Dongguan) Activated Carbon Co., Ltd.; Ningxia Baota Activated Carbon Co., Ltd.; Ningxia Fengyuan Activated Carbon Co., Ltd.; Ningxia Guanghua Activated Carbon Co., Ltd.; Ningxia Guanghua Chemical Activated Carbon Co., Ltd.; Ningxia Haoqing Activated Carbon Co., Ltd.; Ningxia Honghua Carbon Industrial Corporation; Ningxia Huinong Xingsheng Activated Carbon Co., Ltd.; Ningxia Luyuanheng Activated Carbon Co., Ltd.; Ningxia Pingluo County YaoFu Activated Carbon Factory; Ningxia Pingluo County Yaofu Activated Carbon Plant; Ningxia Pingluo Xuanzhong Activated Carbon Co., Ltd.; Ningxia Pingluo Yaofu Activated Carbon Factory; Ningxia Tianfu Activated Carbon Co., Ltd.; Ningxia Xingsheng Coal and Active Carbon Co., Ltd.; Ningxia Yinchuan Lanqiya Activated Carbon Co., Ltd.; Ningxia Yirong Alloy Iron Co., Ltd.; Ninxia Tongfu Coking Co., Ltd.; Pingluo Xuanzhong Activated Carbon Co., Ltd.; Shanxi Bluesky Purification Material Co., Ltd.; Shanxi Qixian Foreign Trade Corporation; Shanxi Xiaoyi Huanyu Chemicals Co., Ltd.; Shanxi Xinhua Activated Carbon Co., Ltd.; Shanxi Xuanzhong Chemical Industry Co., Ltd.; Tonghua Bright Future Activated Carbon Plant; Tonghua Xinpeng Activated Carbon Factory; Xi Li Activated Carbon Co., Ltd.; Xi'an Shuntong International Trade & Industrials Co., Ltd.; Xinhua Chemical Company Ltd.; Yinchuan Lanqiya Activated Carbon Co., Ltd.; and, Yuyang Activated Carbon Co., Ltd. The Petitioners were the only party to request a review of these companies.

##### **Partial Rescission**

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The Petitioners' request has fallen within the 90-day period, and thus, is timely. Because the Petitioners' withdrawal of requests for review is timely and because no other party requested a review of the aforementioned companies, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review with respect to the above listed companies.

##### **Assessment Rates**

The Department will instruct U.S. Customs and Border Protection ("CBP")

to assess antidumping duties on all appropriate entries. For those companies for which this review has been rescinded and which have a separate rate, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

#### Notification to Importers

This notice serves as a final reminder to importers for whom this review is being rescinded, as of the publication date of this notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: July 16, 2008.

**Stephen J. Claey's,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E8-16765 Filed 7-21-04; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XD09

#### Marine Mammals; File No. 10045

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of permit.

**SUMMARY:** Notice is hereby given that Samuel Wasser, Ph.D., has been issued a permit to conduct research on southern resident killer whales (*Orcinus orca*) for scientific research.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115-0700; phone (206)526-6150; fax (206)526-6426;

**FOR FURTHER INFORMATION CONTACT:** Jaclyn Daly or Jennifer Skidmore, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** On October 10, 2007, notice was published in the *Federal Register* (72 FR 57523) that a request for a permit to conduct research on the species identified above had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

The permit authorizes the permit holder to closely approach and collect fecal samples from southern resident killer whales. The purpose of the research is to investigate the impacts of prey availability, toxins, and vessel traffic on killer whales using hormone fecal analysis.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment (EA) was prepared analyzing the effects of the permitted activities on the human environment. Based on the analyses in the EA, NMFS determined

that issuance of the permit would not significantly impact the quality of the human environment and that preparation of an environmental impact statement was not required. That determination is documented in a Finding of No Significant Impact (FONSI), signed on July 8, 2008.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 15, 2008.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E8-16781 Filed 7-21-08; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XJ13

#### Marine Mammals; File No. 13392

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of permit.

**SUMMARY:** Notice is hereby given that Thomas A. Jefferson, NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA 92037 has been issued a permit to conduct research on bottlenose dolphins (*Tursiops truncatus*).

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562)980-4001; fax (562)980-4018.

**FOR FURTHER INFORMATION CONTACT:** Kate Swails or Carrie Hubard, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** On May 16, 2008, notice was published in the *Federal Register* (73 FR 28436) that a request for a scientific research permit to take the species indicated above had been submitted by the above-named individual. The requested permit has

been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The research will provide information to better understand the levels and impacts of persistent organic pollutants on the California coastal stock of bottlenose dolphins. Up to 60 individuals will be photo-identified and biopsied over the course of the five year permit. Killer whales (*Orcinus orca*), harbor porpoises (*Phocoena phocoena*), and bottlenose dolphins could be incidentally harassed during the proposed research. The sampling will occur mainly in Monterey Bay but may also occur in other locations along California.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: July 17, 2008.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E8-16787 Filed 7-21-08; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before August 21, 2008.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or via fax to (202) 395-6974. Commenters should include the following subject line in their response "Comment: [insert OMB number], [insert abbreviated collection name, e.g., "Upward Bound

Evaluation"']. Persons submitting comments electronically should not submit paper copies.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 17, 2008.

**Angela C. Arrington,**

*IC Clearance Official, Regulatory Information Management Services, Office of Management.*

### Office of Planning, Evaluation and Policy Development

*Type of Review:* New.

*Title:* Family Educational Rights and Privacy Act (FERPA) Regulatory Requirements.

*Frequency:* On Occasion; Annually.  
*Affected Public:* State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

Responses: 1,666,013.  
Burden Hours: 1,666,013.

*Abstract:* The Family Educational Rights and Privacy Act (FERPA) requires that subject educational agencies and institutions notify parents and students of their rights under FERPA and requires that they record disclosures of personally identifiable information from education records, with certain exceptions.

*Additional Information:* The Department informed the public through the 60-day notice that the Notice of Proposed Rulemaking (NPRM) for the Family Educational Rights and

Privacy Act was published on March 24, 2008. The NPRM (Vol. 73, No. 57, page 15574) did not provide a comment period for the information collection activity. However, the 60-day notice provided and the 30-day notice provides the appropriate comment period for the information collection activity.

Requests for copies of the information collection submission for OMB review may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3693. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Requests may also be electronically mailed to [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov) or faxed to 202-401-0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E8-16789 Filed 7-21-08; 8:45 am]

BILLING CODE 4000-01-P

## ELECTION ASSISTANCE COMMISSION

### Sunshine Act Notice

**AGENCY:** United States Election Assistance Commission (EAC).

**ACTION:** Notice of Virtual Public Forum for EAC Board of Advisors.

**DATES & TIMES:** Monday, August 4, 2008, 9 a.m. EDT through Friday, August 8, 2008, 5 p.m. EDT.

**PLACE:** EAC Board of Advisors Virtual Meeting Room at <http://www.eac.gov>. Once at the main page of EAC's Web site, viewers should click the link to the Board of Advisors Virtual Meeting Room. The virtual meeting room will open on Monday, August 4, 2008, at 9 a.m. EDT and will close on Friday, August 8, 2008, at 5 p.m. EDT. The site will be available 24 hours per day during that 5-day period.

**PURPOSE:** The EAC Board of Advisors will review and provide comment on the draft Alternative Voting Methods report. The draft contains feasibility and advisability recommendations regarding: early voting; Election Day as a Federal holiday; vote-by-mail; vote centers; weekend voting; and, voting in

Puerto Rico. The EAC Board of Advisors Virtual Meeting Room was established to enable the Board of Advisors to conduct business in an efficient manner in a public forum, including being able to review and discuss draft documents, when it is not feasible for an in-person board meeting. The Board of Advisors will not take any votes or propose any resolutions during the 5-day forum of August 4–August 8, 2008. Members will post comments about the draft Alternative Voting Methods report.

This activity is open to the public. The public may view the proceedings of this special forum by visiting the EAC Board of Advisors virtual meeting room at <http://www.eac.gov> at any time between Monday, August 4, 2008, 9 a.m. EDT and Friday, August 8, 2008, 6 p.m. EDT. The public also may view the draft alternative voting methods report, which will be posted on EAC's Web site beginning August 4, 2008. The public may file written statements to the EAC Board of Advisors at [boardofadvisors@eac.gov](mailto:boardofadvisors@eac.gov). Data on EAC's Web site is accessible to visitors with disabilities and meets the requirements of section 508 of the Rehabilitation Act.

**FOR FURTHER INFORMATION CONTACT:** Bryan Whitener, Telephone: (202) 566–3100.

**Gracia M. Hillman,**  
Commissioner, U.S. Election Assistance  
Commission.

[FR Doc. 08–1457 Filed 7–18–08; 10:20 am]

BILLING CODE 6820–KF–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. IC08–600–001, FERC–600]

#### Commission Information Collection Activities, Proposed Collection; Comment Request; Submitted for OMB Review

July 14, 2008.

**AGENCY:** Federal Energy Regulatory  
Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those

comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of January 30, 2008 (73 FR 5529–5531) and has made this notation in its submission to OMB.

**DATES:** Comments on the collection of information are due by August 21, 2008.

**ADDRESSES:** Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, *c/o oira\_submission@omb.eop.gov* and include the OMB Control No. (1902–0180) as a point of reference. The Desk Officer may be reached by telephone at 202–395–7345. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–34, Attention: Michael Miller, 888 First Street, NE., Washington, DC 20426.

Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Secretary of the Commission, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC08–600–001. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at (<http://www.ferc.gov/help/submission-guide/electronic-media.asp>). To file the document electronically, access the Commission's Web site and click on Documents & Filing, E-Filing (<http://www.ferc.gov/docs-filing/efiling.asp>), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the "eLibrary" link. For user assistance, contact [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov) or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

**FOR FURTHER INFORMATION CONTACT:** Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at [michael.miller@ferc.gov](mailto:michael.miller@ferc.gov).

**SUPPLEMENTARY INFORMATION:** The information collected under the requirements of FERC–600 Rules of Practice and Procedure: Complaint Procedures (OMB No. 1902–0180) is used by the Commission to implement the statutory provisions of the Federal Power Act (FPA), 16 U.S.C. 791a–825r; the Natural Gas Act (NGA), 15 U.S.C. 717–717w; the Natural Gas Policy Act (NGPA), 15 U.S.C. 3301–3432; the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601–2645; the Interstate Commerce Act, 49 U.S.C. App. § 1 *et seq.*; the Outer Continental Shelf Lands Act, 43 U.S.C. 1301–1356 and the Energy Policy Act of 2005, (Pub. L. 109–58) 119 Stat. 594.

With respect to the natural gas industry, section 14(a) of the NGA provides: The Commission may permit any person to file with it a statement in writing, under oath or otherwise, as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of an investigation.

*For public utilities, section 205(e) of the FPA provides:* Whenever any such new schedule is filed, the Commission shall have the authority, either upon complaint or upon its own initiative without complaint at once, and, if it so orders, without answer or formal pleading by the public utility, but upon reasonable notice to enter upon hearing concerning the lawfulness of such rate, charge, classification, or service; and pending such hearing and decision of the Commission. \* \* \*

Section 215(d)(5) of the FPA provides: The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section. \* \* \*

*Concerning hydropower projects, section 19 of the FPA provides:* \* \* \* it is agreed as a condition of such license that jurisdiction is hereby conferred upon the Commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission or other authority for such regulation and control. \* \* \*

For qualifying facilities, section 210(h)(2)(B) of PURPA provides: Any electric utility, qualifying co-generator, or qualifying small power producer may petition the Commission to enforce the requirements of subsection (f) as

provided in subparagraph (A) of this paragraph.

Likewise for oil pipelines, Part 1 of the Interstate Commerce Act (ICA), sections 1, 6 and 15 (re-codified by Pub. L. 95–473 and found as an appendix to Title 49 U.S.C.) the Commission is authorized to investigate the rates charged by oil pipeline companies subject to its jurisdiction. If a proposed oil rate has been filed and allowed by the Commission to go into effect without suspension and hearing, the Commission can investigate the effective rate on its own motion or by complaint filed with the Commission. Section 13 of the ICA provided that: Any person, firm, corporation, company or association, or any mercantile, agricultural, or manufacturing society or other organization, or any common carrier subject to the provisions of this chapter in contravention of the provisions thereof, may apply to the Commission by petition which shall briefly state the facts: Whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the Commission. \* \* \*

In Order No. 602, 64 FR 17087 (April 8, 1999), the Commission revised its regulations governing complaints filed with the Commission under the above statutes. Order No. 602 was designed to encourage and support consensual resolution of complaints, and to

organize the complaint procedures so that all complaints are handled in a timely and fair manner. In order to achieve the latter, the Commission revised Rule 206 of its Rules of Practice and Procedure (18 CFR 385.206) to require that a complaint satisfy certain informational requirements, that answers be filed in a shorter, 20-day time frame, and that parties may employ various types of alternative dispute resolution procedures to resolve complaints.

In Order No. 647, 69 FR 32436 (June 10, 2004), the Commission revised its regulations to simplify the formats it requires for various types of notices. These revisions provide for a more uniform formatting and make it easier for the Commission to update the form of notice formatting without the necessity of initiating a rulemaking for every change. A new subsection 18 CFR 385.203(d) replaced the former format requirements. Among the provisions that were affected by these revisions was 18 CFR 385.206(b)(10).

On September 9, 2005, the Office of Management and Budget (OMB) approved the reporting requirements contained in FERC–600 for a term of three years, the maximum period permissible under the Paperwork Reduction Act <sup>1</sup> before an information collection must be resubmitted for approval. As noted above this notice seeks public comments in order for the Commission to submit a justification to OMB to approve and extend the current expiration date of the FERC–600

reporting requirements. The data in complaints filed by interested/affected parties regarding oil and natural gas pipeline operations, electric and hydropower facilities in their applications for rate changes, service, licensing or reliability are used by the Commission in establishing a basis for various investigations and to make an initial determination regarding the merits of the complaint.

Investigations may range from whether there is undue discrimination in rates or service to questions regarding market power of regulated entities to environmental concerns. In order to make a better determination, it is important to know the specifics of any oil, gas, electric, and hydropower complaint “upfront” in a timely manner and in sufficient detail to allow the Commission to act swiftly. In addition, such complaint data will help the Commission and interested parties to monitor the market for exercises of market power or undue discrimination. The information is voluntarily submitted with prescribed information. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 385, 385.206, 385.203 and 385.213.

*Action:* The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

*Burden Statement:* Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
81*# .....	1	14	1,134

\* Represents three year averages (2005–2007) #Rounded off.

Estimated cost burden to respondents is \$68,904. (1,134 hours/2,080 hours per year times \$126,384 per year average per employee = \$68,904). The cost per respondent is \$851. There is a significant decrease in the number of respondents and number of filings since the last renewal request. However, the cost per respondent has increased to reflect adjustments due to inflationary costs.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information

including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

<sup>1</sup> Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, 44 U.S.C. 3501–3520.

*Comments are invited on:* (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-16709 Filed 7-21-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP08-431-000; PF08-6-000]

#### Columbia Gas Transmission Corporation; Notice of Application

July 11, 2008.

Take notice that on June 24, 2008, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in the above referenced docket an application pursuant to section 7(c) and 7(b) of the Natural Gas Act (NGA), for an order granting a certificate of public convenience to construct, own, and operate natural gas storage facilities in Ohio to provide storage services at market-based rates (Ohio Storage Expansion Project), all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Any questions concerning this application may be directed to Fredric J. George, Lead Counsel, Columbia Gas Transmission Corporation, P.O. Box

1273, Charleston, West Virginia 25325-1273; telephone: 304-357-2359; fax: 304-357-3206.

On December 27, 2007, the Commission staff granted Columbia's request to utilize the Pre-Filing Process and assigned Docket No. PF08-6-000 to staff activities involved the Ohio Storage Expansion Project. Now as of the filing the June 24, 2008 application, the Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP08-431-000, as noted in the caption of this Notice.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings

associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* August 1, 2008.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-16695 Filed 7-21-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 13232-000]

#### Coastal Power, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

July 11, 2008.

On May 27, 2008, Coastal Power, Inc. filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Hell Gate Tidal Project, to be located on the East River in the Manhattan area of New York.

*The proposed project would consist of:* (1) Six Venturi Water Turbines, dimensions approximately four feet by twelve feet, anchored to the bottom of

the river by eight wood pilings, (2) visible towers that house a generator for each turbine, dimensions approximately one foot by one foot, located on the surface of the river, (3) a commercial inverter which is two feet by four feet by three feet and located on the shore of the river, (4) appurtenant facilities. The project would have an annual energy generation of 821,250 KW-hrs per year.

**Applicant Contact:** Mr. Gregory Aurre III, President, Coastal Power, Inc., 1721 17th Court, Jupiter, Florida 33477; **phone:** 631-787-6010. **FERC Contact:** Alyssa Dorval, 202-502-6735.

**Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:** 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13232) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-16701 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[P-2188-156]

#### PPL Montana, LLC; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

July 11, 2008.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. **Application Type:** Amendment of License.

b. **Project No.:** 2188-156.

c. **Date Filed:** June 11, 2008.

d. **Applicant:** PPL Montana (PPLM), LLC.

e. **Name of Project:** Missouri-Madison Hydroelectric Project.

f. **Location:** The Rainbow Development of the Missouri-Madison Hydroelectric Project is located on the Missouri River in Cascade County, Montana. There are no federal lands within the project boundary of the Rainbow Development.

g. **Filed Pursuant to:** Federal Power Act, 16 U.S.C. 791a-825r.

h. **Applicant Contact:** David R. Poe, Dewey & LeBoeuf LLP, 1101 New York Avenue, NW., Suite 1100, Washington, DC 20001, **Tel:** (202) 986-8000, **Fax:** (202) 986-8102, **E-mail:** [dpoe@dl.com](mailto:dpoe@dl.com).

i. **FERC Contact:** Jake Tung, Telephone (202) 502-8757, and **e-mail:** [hong.tung@ferc.gov](mailto:hong.tung@ferc.gov).

j. **Deadline for filing comments, motions to intervene, and protest:** August 11, 2008.

**All documents (original and eight copies) should be filed with:** Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. **Description of Request:** The applicant proposes to amend the license for the Missouri-Madison Hydroelectric Project to construct: (1) A new intake structure at the dam will be constructed adjacent to the existing intake structures; (2) a new open channel will be constructed including a new forebay and surge facility; (3) a new powerhouse with a single turbine with substantially the same capacity rating (62 MW/7,512 cfs) as the capacity for the two units that were originally proposed (60 MW/8,000 cfs); and (4) an intake for the penstock will be constructed.

l. **Locations of the Application:** A copy of the application is available for

inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3372 or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov); for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. **Comments, Protests, or Motions to Intervene:** Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers.

p. **Agency Comments:** Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web



site at <http://www.ferc.gov> under the "eFiling" link.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-16704 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP08-435-000]

#### Tennessee Gas Pipeline Company; Notice of Application

July 15, 2008.

Take notice that on July 2, 2008, Tennessee Gas Pipeline Company (Tennessee), 1001 Louisiana Street, Houston, Texas 77002, filed an abbreviated application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain capacity entitlements held by Dynegy Marketing and Trade in the South Pass 77 system, which are derived from Tennessee's ownership in such system, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Any initial questions regarding Tennessee's proposal in this application should be directed to Jacquelyne M. Rocan, Senior Counsel, Tennessee Gas Pipeline Company, 1001 Louisiana Street, Houston, Texas 77002; telephone: (713) 420-4544; fax: (713) 420-1601.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the

EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the

Commission) and will not have the right to seek court review of the Commission's final order.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit the original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

*Comment Date:* August 5, 2008.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-16693 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 13237-000]

#### Whitman River Dam, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

July 11, 2008.

On June 9, 2008, Whitman River Dam, Inc. filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to develop the hydroelectric potential at the existing Crocker Dam located on the Whitman River in the Town of Westminster, Worcester County, Massachusetts.

*The proposed project would consist of:* (1) An earthen and masonry dam, 38.5-foot-high and 520-foot-long, (2) a head pond with storage of 1,027.0 acre-feet, (3) an existing 42-inch diameter steel penstock, and (4) a new powerhouse located downstream of the dam on the left side of the river containing one generating unit having a capacity of 100 kilowatts. The project would have an annual generation of 607,000 kilowatt hours and would be sold to power marketers, local industrial users, or municipal electric utilities.

*Applicant Contact:* Mr. Robert Francis, President, Whitman River Dam, Inc., P.O. Box 145, 10 Tommy Francis Road, Westminster, MA 01473. *FERC Contact:* Shameek Patel, 202-502-6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically



via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13237) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-16702 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 13242-000]

#### Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment, Motions to Intervene, and Competing Applications

July 11, 2008.

On June 13, 2008, Whitman River Dam, Inc. filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to develop the hydroelectric potential at the existing Westminster Reservoir Pond Dam located on the Whitman River in the Town of Westminster, Worcester County, Massachusetts.

*The proposed project would consist of:* (1) An earthen and masonry dam, 31-foot-high and 1,500-foot-long, (2) a head pond with storage of 870.0 acre-feet, (3) two existing 30-inch diameter discharge pipes, and (4) a new powerhouse located in the vicinity of the discharge pipes containing one generating unit having a capacity of 35 kilowatts. The project would have an annual generation of 218,000 kilowatt hours and would be sold to power marketers, local industrial users, or municipal electric utilities.

*Applicant Contact:* Mr. Robert Francis, President, Whitman River Dam, Inc., P.O. Box 145, 10 Tommy Francis

Road, Westminster, MA 01473. FERC Contact: Shameek Patel, 202-502-6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13242) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-16703 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-1226-000]

#### Arlington Wind Power Project LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

July 14, 2008.

This is a supplemental notice in the above-referenced proceeding of Arlington Wind Power Project LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice

and Procedure (18 CFR 385.211 and § 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 31, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-16707 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-1225-000]

#### Cloud County Wind Farm; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

July 14, 2008.

This is a supplemental notice in the above-referenced proceeding of Cloud County Wind Farm, LLC's application

for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and § 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 31, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list.

They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-16710 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-1211-000]

#### Green Energy Partners, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

July 11, 2008.

This is a supplemental notice in the above-referenced proceeding of Green Energy Partners, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 31, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-16699 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-1202-000]

#### Huntrise Energy Fund LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

July 11, 2008.

This is a supplemental notice in the above-referenced proceeding of Huntrise Energy Fund LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 31, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission,

888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll-free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-16698 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-1227-000]

#### **Rail Splitter Wind Farm LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

July 14, 2008.

This is a supplemental notice in the above-referenced proceeding of Rail Splitter Wind Farm LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and § 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 31, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic

service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list.

They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-16708 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-1195-000]

#### **Red Hills Wind Project, L.L.C.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

July 11, 2008.

This is a supplemental notice in the above-referenced proceeding of Red Hills Wind Project, L.L.C.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and § 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 31, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-16697 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER08-1228-000]

#### **Wheat Field Wind Power Project LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

July 11, 2008.

This is a supplemental notice in the above-referenced proceeding of Wheat Field Wind Power Project LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket

authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 31, 2008.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list.

They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll-free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-16700 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

July 15, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP96-200-195.

*Applicants:* CenterPoint Energy Gas Transmission Co.

*Description:* CenterPoint Energy Gas Transmission Co. submits two agreements for negotiated rates.

*Filed Date:* 07/10/2008.

*Accession Number:* 20080715-0007.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, July 22, 2008.

*Docket Numbers:* RP01-205-017.

*Applicants:* Southern Natural Gas Company.

*Description:* Southern Natural Gas Co. submits Fifth Revised Sheet 35 et al. to FERC Gas Tariff, Seventh Revised Volume 1, to be effective 8/1/08.

*Filed Date:* 07/11/2008.

*Accession Number:* 20080715-0003.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, July 23, 2008.

*Docket Numbers:* RP08-398-001.

*Applicants:* East Tennessee Natural Gas, LLC.

*Description:* East Tennessee Natural Gas, LLC submits Substitute Second Revised Sheet 174A et al. to FERC Gas Tariff, Third Revised Volume 1, to be effective 7/5/08.

*Filed Date:* 07/10/2008.

*Accession Number:* 20080715-0006.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, July 22, 2008.

*Docket Numbers:* RP08-442-000.

*Applicants:* National Fuel Gas Supply Corporation.

*Description:* National Fuel Gas Supply Corp. submits Second Revised Sheet 131 et al. to FERC Gas Tariff, Fourth Revised Volume 1, to be effective 8/10/08.

*Filed Date:* 07/11/2008.

*Accession Number:* 20080715-0001.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, July 23, 2008.

*Docket Numbers:* RP08-443-000.

*Applicants:* Southern Star Central Gas Pipeline, Inc.

*Description:* Southern Star Central Gas Pipeline, Inc. submits a request for a limited waiver of tariff provisions.

*Filed Date:* 07/11/2008.

*Accession Number:* 20080715-0002.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, July 23, 2008.

*Docket Numbers:* CP08-399-001.

*Applicants:* Columbia Gulf Transmission Company.

*Description:* Columbia Gulf Transmission Company submits a compliance filing to cancel Rate Schedule X067.

*Filed Date:* 07/11/2008.

*Accession Number:* 20080715-0004.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, July 23, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call

(866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E8-16734 Filed 7-21-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP08-432-000]

#### Eastern Shore Natural Gas Company; Notice of Request Under Blanket Authorization

July 11, 2008.

Take notice that on June 30, 2008, Eastern Shore Natural Gas Company (Eastern Shore), 417 Bank Lane, Dover, Delaware 19904, filed in Docket No. CP08-432-000, a prior notice request pursuant to sections 157.205(b), and 157.211 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act (NGA) and its blanket authority granted in Docket No. CP96-128-000 for authorization to construct, own, and operate a new delivery point to be located in Sussex County, Delaware, in order to provide natural gas service to INVISTA S.á.r.l. (INVISTA), all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

Eastern Shore proposes to construct, own, and operate a new delivery point to deliver natural gas to INVISTA to be located in Sussex County, Delaware. Eastern Shore proposes to design and construct, or cause the design and construction of, a six-inch tap and valve and approximately 8,500 feet of six-inch steel pipe from an existing point on its system to a new measuring and regulating (M&R) station located at the INVISTA manufacturing facility. Eastern Shore states that the proposed delivery point would supply one new boiler which INVISTA is currently installing at its manufacturing facility near the city of Seaford (Seaford Site). Eastern Shore asserts that there will be no impact on Eastern Shore's peak day deliveries due to the off-peak seasonal nature of the firm transportation (FT) service

subscribed to by INVISTA. Eastern Shore states that INVISTA responded to Eastern Shore's recent notice of Available Firm Capacity pursuant to Section 14 of its FERC Gas Tariff by submitting a bid for a Maximum Daily Transportation Quantity (MDTQ) of 2,352 dekatherms per day (Dth/d) for the non-peak months of March through October for a fifteen-year term commencing May 1, 2009. Eastern Shore asserts that INVISTA will reimburse Eastern Shore for the cost of the proposed facilities through the FT rate specified in the FT Service Agreement. Eastern Shore states that the total estimated cost of the proposed project is approximately \$1.9 million.

Any questions regarding the application should be directed to Glen DiEleuterio, P.E., Project Manager, Eastern Shore Natural Gas Company, 417 Bank Lane, Dover, Delaware 19904, or at (302) 734-6710, extension 6723.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site ([www.ferc.gov](http://www.ferc.gov)) under the "e-Filing" link.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-16696 Filed 7-21-08; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP08-13-000]

#### Floridian Natural Gas Storage Company, LLC; Notice of Availability of the Final Environmental Impact Statement for the Floridian Natural Gas Storage Project

July 11, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this Final Environmental Impact Statement (EIS) for the natural gas facilities proposed by the Floridian Natural Gas Storage Company, LLC (FGS) under the above-referenced docket. FGS's proposed Floridian Natural Gas Storage Project (Project) would be located approximately two miles north of the unincorporated municipality of Indiantown in Martin County, Florida.

The Final EIS was prepared to satisfy the requirements of the National Environmental Policy Act. The FERC staff concludes that the proposed Project, with the appropriate mitigation measures as recommended, would have limited adverse environmental impact.

The U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the U.S. Fish and Wildlife Service are cooperating agencies for the development of this EIS. A cooperating agency has jurisdiction by law or special expertise with respect to any environmental impact involved with the proposal and is involved in the NEPA analysis.

The general purpose of the proposed Project is to respond to the growing demand for natural gas and natural gas infrastructure in the United States, and, more specifically, in Florida. The Project would enhance access to additional, competitively-priced supplies of natural gas by providing liquefaction, storage, and vaporization services to customers in Florida and the southeastern United States.

The Final EIS addresses the potential environmental effects of construction and operation of the facilities listed below. *FGS proposes to construct and operate:*

- An approximately 53.1 acre liquefied natural gas storage facility;
- An approximately 4-mile-long, 12-inch-diameter receiving pipeline to interconnect with and receive natural gas from the Gulfstream and/or Florida Power & Light (FPL) lateral pipelines;
- An approximately 4-mile-long, 24-inch-diameter sendout pipeline that would parallel the 12-inch pipeline and

interconnect with and deliver natural gas from the storage facility to the Gulfstream and the FPL lateral pipelines;

- Interconnection points with the Gulfstream pipeline at milepost (MP) 4.18 and with the FPL lateral at MP 4.05; and

- A metering and regulating station.

FGS proposes to have the facilities installed and operational within 36 months of commencing construction; however, based on market conditions at the time of construction, the storage facility construction may be separated into two phases.

*The Final EIS has been placed in the public files of the FERC and is available for public inspection at:* Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502-8371.

CD-ROM copies of the Final EIS have been mailed to federal, state, and local agencies; public interest groups; individuals and affected landowners who requested a copy of the Final EIS or provided comments during scoping; libraries and newspapers in the Project area; and parties to this proceeding. Hard copy versions of the Final EIS were mailed to those specifically requesting them. A limited number of hard copies and CD-ROMs are available from the Public Reference Room identified above.

In accordance with the Council on Environmental Quality's regulations implementing NEPA, no agency decision on a proposed action may be made until 30 days after the EPA publishes a notice of availability of a Final EIS.

Additional information about the project is available from the Commission's Office of External Affairs, at 1-866-208-FERC (3372) or on the FERC Internet Web site (<http://www.ferc.gov>). Using the "eLibrary link," select "General Search" and enter the project docket number excluding the last three digits (*i.e.*, CP08-13) in the "Docket Number" field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at 1-866-208-3676, or TTY (202) 502-8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of

time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to <http://www.ferc.gov/esubscribenow.htm>.

It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-16705 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RM06-22-002]

#### North American Electric Reliability Corporation; Notice of Filing

July 11, 2008.

Take notice that on June 27, 2008, the North American Electric Reliability Corporation in compliance with Commission Order No. 706,<sup>1</sup> submits modifications to Violation Risk Factors for Requirements or Sub-Requirements in the Critical Infrastructure Protection Reliability Standards.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

<sup>1</sup> Mandatory Reliability Standards for Critical Infrastructure Protection (Order No. 706), 122 FERC ¶ 61,040 (2008).

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on July 28, 2008.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. E8-16694 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 13147-000; Project No. 13148-000]

#### FFP Ohio River 3, LLC, FFP Ohio River 4, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

July 15, 2008.

On March 25, 2008, FFP Ohio River 3, LLC and FFP Ohio River 4, LLC each filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Ohio River 3 and Ohio River 4 Projects, to be located on the Ohio River in Vanderburgh and Warrick Counties, Indiana and Henderson County, Kentucky.

*The proposed Ohio River 3 Project consists of:* (1) 3,840 proposed 20 kilowatt Free Flow generating units having a total installed capacity of 76.8 megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The FFP Ohio River 3, LLC, project would have an average annual generation of 336.38 gigawatt-hours and be sold to a local utility.

*The proposed Ohio River 4 Project consists of:* (1) 1,860 proposed 20 kilowatt Free Flow generating units having a total installed capacity of 37.2 megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The FFP Ohio River 4, LLC, project would have an average annual generation of 162.94 gigawatt-hours and be sold to a local utility.

*Applicant Contact:* Mr. Dan Irvin, FFP Ohio River 3, LLC and FFP Ohio River

4, LLC, 69 Bridge Street, Manchester, MA 01944, phone (978) 232-3536.

*FERC Contact:* Robert Bell, (202) 502-6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13147 or P-13148) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-16691 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 13151-000; Project No. 13152-000]

#### FFP Ohio River 5, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

July 15, 2008.

On March 25, 2008, FFP Ohio River 5, LLC and FFP Ohio River 6, LLC each filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Ohio River 5 and Ohio River 6 Projects, to be located on the Ohio River in Spencer County, Indiana and Daviess County, Kentucky.

*The proposed Ohio River 5 Project consists of:* (1) 3,480 proposed 20 kilowatt Free Flow generating units having a total installed capacity of 69.6

megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The FFP Ohio River 5, LLC, project would have an average annual generation of 304.85 gigawatt-hours and be sold to a local utility.

*The proposed Ohio River 6 Project consists of:* (1) 2,700 proposed 20 kilowatt Free Flow generating units having a total installed capacity of 54 megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The FFP Ohio River 6, LLC, project would have an average annual generation of 236.52 gigawatt-hours and be sold to a local utility.

*Applicant Contact:* Mr. Dan Irvin, FFP Ohio River 5, LLC and FFP Ohio River 6, LLC, 69 Bridge Street, Manchester, MA 01944, phone (978) 232-3536.

*FERC Contact:* Robert Bell, (202) 502-6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13147 or P-13148) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-16692 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. QF08-16-000]

#### Harris Teeter, Wilson, NC; Notice of Filing of Notice of Self-Certification of Qualifying Status of a Cogeneration Facility

July 15, 2008.

Take notice that on October 15, 2007, Harris Teeter, 701 Crestdale Road, Matthews, NC 28105, filed with the Federal Energy Regulatory Commission a notice of self-certification of a facility as a qualifying cogeneration facility pursuant to 18 CFR 292.207(a) of the Commission's regulations.

This qualifying cogeneration facility consists of a 600 kW packaged diesel engine generator set operating on #2 fuel oil. The package is set on a concrete pad. The unit is self-contained, including all necessary switchgear and controls. The electricity is generated at 480 V, 3 phase, 60 Hz. The facility is located at 3401 Raleigh Road Parkway West, Wilson, NC 27896.

This qualifying facility interconnects with Wilson Energy's electric distribution system. The facility will provide standby power and occasionally supplementary power to Harris Teeter.

A notice of self-certification does not institute a proceeding regarding qualifying facility status; a notice of self-certification provides notice that the entity making filing has determined the Facility meets the applicable criteria to be a qualifying facility. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii).

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. E8-16690 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P



## DEPARTMENT OF ENERGY

Federal Energy Regulatory  
Commission

[Docket No. RP08-401-000; RP08-403-000]

## Notice of Technical Conference

July 14, 2008.

Columbia Gas Transmission Corporation, Docket No. RP08-401-000, Atmos Energy Marketing, LLC, Docket No. RP08-403-000, BP Energy Company, Delta Energy, LLC, Direct Energy, Hess Corporation, Honda of America Mfg., Inc., Integrys Energy Services, Inc., Interstate Gas Supply, Inc., National Energy Marketers Association, Ohio Farm Bureau Federation, Sequent Energy Management, L.P., Complainants v. Columbia Gas Transmission Corporation, Respondent.

The Commission's July 2, 2008 Order,<sup>1</sup> in the above-captioned proceeding, directed that a technical conference be held to address issues raised by Columbia Gas Transmission Corporation's (Columbia) Natural Gas Act (NGA) section 4 filing to clarify the nature of the Master List of Interconnect points and their use as identifiers of virtual scheduling points in Columbia's tariff and the complaint filed by Atmos Energy Marketing, LLC, *et al.*, pursuant to section 5 of the NGA.

Take notice that a technical conference will be held on Tuesday, August 5, 2008 and Wednesday August 6, 2008. The conference will begin at 10 a.m. on both days in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Participants are directed to make available persons familiar with contracting, nominating, scheduling and related practices on Columbia's system.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to [accessibility@ferc.gov](mailto:accessibility@ferc.gov) or call toll free (866) 208-3372 (voice) or 202-502-8659 (TTY), or send a fax to 202-208-2106 with the required accommodations.

All interested persons and staff are permitted to attend. For further procedural information please contact Robert Mclean at (202) 502-8156.

Kimberly D. Bose,

Secretary.

[FR Doc. E8-16706 Filed 7-21-08; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

## Western Area Power Administration

Washoe Project-Rate Order No.  
WAPA-136AGENCY: Western Area Power  
Administration, DOE.ACTION: Notice of Order Concerning  
Non-Firm Power Formula Rate.

**SUMMARY:** The Deputy Secretary of Energy confirmed and approved Rate Order No. WAPA-136 and Rate Schedule SNF-7, placing a non-firm power formula rate from the Stampede Powerplant (Stampede) of the Washoe Project of the Western Area Power Administration (Western) into effect on an interim basis. The provisional rate will be in effect until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places it into effect on a final basis or until it is replaced by another rate. The provisional rate will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of power investment within allowable periods.

**DATES:** Rate Schedule SNF-7 will be placed into effect on an interim basis on the first day of the first full billing period beginning on or after August 1, 2008, and will be in effect until FERC confirms, approves, and places the rate schedule in effect on a final basis through July 31, 2013, or until the rate schedule is superseded.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Boyko, Regional Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710, (916) 353-4418 or Ms. Sonja A. Anderson, Power Marketing Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710, (916) 353-4421, e-mail [sanderso@wapa.gov](mailto:sanderso@wapa.gov).

**SUPPLEMENTARY INFORMATION:** The Deputy Secretary of Energy approved existing Rate Schedule SNF-6, a non-firm power formula rate on August 16, 2005.<sup>1</sup> Rate Schedule SNF-6 is effective from October 1, 2005, through September 30, 2010. Rate schedule SNF-6 links the existing non-firm power formula rate to a contract with the Sierra Pacific Power Company (Sierra). The index that Western uses in SNF-6 to set the "floor rate" in SNF-6 is linked to the same contract. Western

terminated the contract with Sierra on July 31, 2007. As a result, it is necessary for Western to initiate a new rate case to align the non-firm power formula rate to future third-party contractors. As explained below, the provisional formula rate for Rate Schedule SNF-7 will rectify the mismatches to the terminated contract and will continue to calculate the Stampede annual transferred Power Revenue Requirement (PRR) as a cost transferred to the Central Valley Project (CVP).

In order to serve project use loads and effectively market the energy from Stampede, Western has contracted with a third party (Contractor) that provides for a Stampede Energy Exchange Account (SEEA). The SEEA is an annual energy exchange account for Stampede energy. Under this contract, the Contractor accepts delivery of all energy generated from Stampede and integrates this generation into its resource portfolio. The monthly calculation of revenue from Stampede energy received by the Contractor is credited into the SEEA at the SEEA Rate. Western can use the SEEA to benefit project use facilities and market energy from Stampede to CVP preference customers.

From 1994 to 2007, Sierra, through Contract 94-SAO-00010 (Contract 00010), has served as the Contractor integrating Stampede generation into its resource portfolio and serving station service and project use loads in Sierra's service territory. SNF-6 links the current non-firm power formula rate to Contract 00010 and the management of the SEEA. In addition, the index that was used in Rate Schedule SNF-6 to set the floor rate was contained in Contract 00010.

On May 10, 2007, the Truckee Donner Public Utility District (Truckee Donner) and the City of Fallon (Fallon), two preference customers located within Sierra's Balancing Authority, entered into a contract with Western that replaces Contract 00010. This new contract with Truckee Donner and Fallon (TDF), Contract 07-SNR-01026 (Contract 01026), uses a market index methodology as the basis for valuing Stampede generation. The effective date of Contract 01026 was August 1, 2007. The change in contractors and the "floor rate" definition makes it necessary for Western to initiate a new rate adjustment to update the non-firm power formula rate. In this new rate design, Western is using a general term of "Contractor" in the development of the formula rate and resulting rate schedule in order to provide flexibility in the event the Contractor changes in the future.

<sup>1</sup> Rate Order No. WAPA-119, August 29, 2005. FERC confirmed and approved the rate schedule on May 4, 2006, under FERC Docket EF05-5161-000.

<sup>1</sup> *Columbia Gas Transmission Corp.*, 124 FERC ¶ 61,007 (2008).



The existing non-firm power Rate Schedule set the SEEA rate (previously known as the floor rate in SNF-6) at 17.89 mills per kilowatthour (mills/kWh). Western estimates the proposed formula rate for non-firm power for the Washoe Project in Rate Schedule SNF-7 will result in an average SEEA Rate for the rate period of 47.85 mills/kWh. This will result in an increase of 167 percent when compared with the existing Washoe Project non-firm power SEEA Rate under Rate Schedule SNF-6.

By Delegation Order No. 00-037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. DOE published its existing procedures for public participation in power rate adjustments on September 18, 1985 (10 CFR Part 903 (2008)).

Pursuant to paragraph 1.5 of Delegation Order No. 00-037.00, Western's Administrator approved the power formula rate for the sale of short-term, non-firm power to TDF effective August 1, 2007. The Administrator's approval provided interim rate authority between the effective date of the new contract, August 1, 2007, and the effective date of the interim rate, August 1, 2008. The Administrator's approval will expire on July 31, 2008.

Under Delegation Order Nos. 00-037.00 and 00-001.00C, 10 CFR Part 903, and 18 CFR Part 300, I hereby confirm, approve, and place Rate Order No. WAPA-136, the Washoe non-firm power formula rate into effect on an interim basis. The new Rate Schedule SNF-7 will be promptly submitted to FERC for confirmation and approval on a final basis.

Dated: July 14, 2008.

**Jeffrey F. Kupfer,**

*Acting Deputy Secretary.*

#### **Department of Energy Deputy Secretary**

In the matter of: Western Area Power Administration, Rate Adjustment for the Washoe Project, Stampede Division Non-Firm Power Formula Rate; Rate Order No. WAPA-136

#### **Order Confirming, Approving, and Placing the Washoe Project, Stampede Division, Non-Firm Power Formula Rate Into Effect on an Interim Basis**

This rate was established in accordance with section 302 of the Department of Energy (DOE)

Organization Act (42 U.S.C. 7152). This Act transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other Acts that specifically apply to the project involved.

By Delegation Order No. 00-037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western Area Power Administration's (Western) Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. DOE published its existing procedures for public participation in power rate adjustments (10 CFR Part 903) on September 18, 1985.

#### **Acronyms and Definitions**

As used in this Rate Order, the following acronyms and definitions apply:

**2004 Power Marketing Plan:** The 2004 Power Marketing Plan (64 FR 34417) effective January 1, 2005.

**Administrator:** The Administrator of the Western Area Power Administration.

**Capacity:** The electric capability of a generator, transformer, transmission circuit, or other equipment expressed in kilowatts.

**Composite Rate:** The rate for non-firm power which is the total annual revenue requirement for capacity and energy divided by the total annual energy sales. It is expressed as mills/kWh and used for comparison purposes.

**Contractor:** The third party(ies) who, under contract with Western, are responsible for (1) managing the Stampede Energy Exchange Account (SEEA) (2) integrating Stampede generation into their resource portfolio, and (3) ensuring that station service and project use loads are served for the Washoe Project.

**Customer:** An entity with a contract that receives service from Western's Sierra Nevada Customer Service Region (SNR).

**CVP:** Central Valley Project—A multipurpose Federal water development project extending from the Cascade Range in northern California to

the plains along the Kern River south of Bakersfield, California.

**Deficits:** Unpaid or deferred annual or interest expenses.

**DOE:** United States Department of Energy.

**DOE Order RA 6120.2:** An order outlining power marketing administration financial reporting and ratemaking procedures.

**Energy:** Measured in terms of the work it is capable of doing over a period of time. It is expressed in kilowatthours.

**FERC:** The Federal Energy Regulatory Commission.

**Floor Rate:** Per Contract 00010 with Sierra, is equal to 85 percent of the then effective, non-time differentiated rate provided in Sierra's California Quarterly Short-Term Purchase Price Schedule for as-available purchases from qualifying facilities with capacities of 100 kilowatts (kW) or less.

**FRN:** Federal Register notice.

**FY:** Fiscal Year; October 1 to September 30.

**kW:** Kilowatt—The electrical unit of capacity that equals 1,000 watts.

**kWh:** Kilowatthour—The electrical unit of energy that equals 1,000 watts delivered or used in 1 hour.

**Load:** The amount of electric power or energy delivered or required at any specified point(s) on a transmission or distribution system.

**Mill:** A monetary denomination of the United States that equals one-tenth of a cent or one-thousandth of a dollar.

**Mills/kWh:** Mills per kilowatthour. The unit of charge for energy.

**MW:** Megawatt—The electrical unit of capacity that equals 1 million watts or 1,000 kilowatts.

**NEPA:** National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*).

**Non-firm:** A type of product and/or service not always available at the time requested by the customer.

**O&M:** Operation and Maintenance.

**Power:** Capacity and Energy.

**Preference:** The provisions of Reclamation Law which require Western to first make Federal power available to certain entities. For example, section 9(c) of the Reclamation Project Act of 1939 states that preference in the sale of Federal power shall be given to municipalities and other public corporations or agencies and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made under the Rural Electrification Act of 1936 (43 U.S.C. 485h(c)).

**Project Use:** Power used to operate Washoe Project facilities under Reclamation Law.

**Provisional Rate:** A rate which has been confirmed, approved, and placed

into effect on an interim basis by the Deputy Secretary.

**PRR: Power Revenue Requirement—** The annual revenue that must be collected to recover annual expenses such as O&M, purchase power, transmission service expenses, interest, deferred expenses, and repay Federal investments and other assigned costs.

**PRS: Power Repayment Study.**

**Rate Brochure:** A document explaining the rationale and background for the rate proposal contained in this Rate Order dated February 2008.

**Ratesetting PRS:** The PRS used for the rate adjustment proposal.

**Reclamation:** United States Department of the Interior, Bureau of Reclamation.

**Reclamation Law:** A series of Federal laws. Viewed as a whole, these laws create the originating framework under which Western markets power.

**Revenue Requirement:** The revenue required to recover annual expenses such as O&M, purchase power, transmission service expenses, interest, deferred expenses, and repay Federal investments and other assigned costs.

**SEEA:** The Stampede Energy Exchange Account.

**SEEA Rate:** The rate at which Stampede project generation is valued and credited to the SEEA. The SEEA Rate replaces the floor rate (WAPA Order No. 119).

**Sierra:** Sierra Pacific Power Company also known as Nevada Power and Sierra Pacific Resources.

**SNR:** The Sierra Nevada Customer Service Region of Western.

**Stampede:** Power system facilities of Washoe Project, Stampede Division.

**Stampede Annual PRR:** The total Power Revenue Requirement for Stampede required to repay all reimbursable annual costs, including interest and the investment within the allowable period.

**Stampede Revenue:** Revenue generated from applying the SEEA Rate to project generation under the methodology established in a contract.

**Supporting Documentation:** A compilation of data and documents that support the Rate Brochure and the rate proposal.

**TDF:** Truckee Donner Public Utility District and City of Fallon—As of August 1, 2007, TDF is the third-party Contractor responsible for the management of the SEEA and Stampede generation.

**Washoe Project:** A Reclamation project located in the Lahontan Basin in west-central Nevada and east-central California.

**Western:** United States Department of Energy, Western Area Power Administration.

## Effective Date

The new provisional formula rate will take effect on the first day of the first full billing period beginning on or after August 1, 2008, and will remain in effect until July 31, 2013, pending approval by FERC on a final basis.

## Public Notice and Comment

Western followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these rates. The steps Western took to involve interested parties in the rate process included:

1. A FRN published on February 6, 2008 (73 FR 6958), announced the proposed change of the non-firm power formula rate. This notice began the public consultation and comment period.

2. On February 6, 2008, Western e-mailed the FRN (73 FR 6958) to the SNR Preference Customers and interested parties explaining that this was a minor rate adjustment. While there was no public information or comment forum for this rate process (10 CFR part 903), Western informed interested parties of Western's availability to explain the rationale for the rate adjustment and to discuss the studies that support the proposal for the change to the formula rate.

3. On February 6, 2008, Western also mailed letters to the SNR Preference Customers and interested parties transmitting the Web site address to obtain a copy of the FRN and providing instructions on how to receive a copy of the Rate Brochure.

4. Western communicated clarifying information on the proposed rate adjustment with the following Preference Customers and/or interested parties. This information is included in the record:

Northern California Power Agency, California.  
Redding Electric Utility, California.  
Sacramento Municipal Utility District, California.

5. Western received no comment letters during the consultation and comment period, which ended on March 7, 2008.

## Project Description

The Stampede Dam and Reservoir are located on the Little Truckee River immediately below the mouth of Davies Creek and approximately 8 miles above the confluence of the Little Truckee and Truckee Rivers. The dam and reservoir are in Sierra County, California, approximately 11 miles northeast of the town of Truckee. The water source for

Stampede Reservoir is the Little Truckee River drainage basin containing about 136 square miles of densely wooded slopes and grass meadowlands.

On August 1, 1956, as part of the Washoe Project, Congress authorized the Stampede Dam and Reservoir project, including hydroelectric power development. (70 Stat. 755 (1956)). When the United States built the Stampede Dam, it did not construct the power facilities because the power function was not economically justified.

Subsequently, in July 1976, the United States re-evaluated constructing a powerplant at Stampede and published its findings in a special Reclamation report: Adding Powerplants at Existing Federal Dams in California. In the report, Reclamation recommended constructing a Stampede powerplant. As a result, Reclamation initiated definitive plan studies in FY 1977, and Reclamation completed construction in 1987. A one-half mile 60-kV transmission line interconnects the Stampede power facilities with Sierra's transmission system.

Reclamation operates Stampede Dam and Reservoir for four specific purposes: Flood control, fisheries enhancement, recreation, and power generation. The powerplant has a 3.65 MW generator and it provides approximately 12 million kWh of energy annually. The energy generated by the powerplant is first used to serve designated Washoe Project use loads. Western markets all remaining energy generation. Due to the nature of Washoe Project (run of the river), the energy produced is non-firm. To maximize the value of the non-firm energy, Western, in consultation with Reclamation, markets the energy under the conditions outlined in Western's contract with a third-party Contractor.

The Lahontan National Fish Hatchery and the Marble Bluff Fish Facility are the project use facilities entitled to energy from the Stampede Powerplant. The Marble Bluff Fish Hatchery is located on the Truckee River about 3.5 miles upstream from Pyramid Lake. The Lahontan National Fish Hatchery is located off the Carson River just south of Carson City in Gardnerville, Nevada. The loads at these facilities are projected to be approximately 2 million kWh annually.

Section 2 of the Washoe Project Act outlined the repayment period to be “\* \* \* over a period of not more than fifty years \* \* \*” (70 Stat. 775). In addition, Section 4 stated the cost of Fish and Wildlife facilities, including the operations and maintenance, shall be non-reimbursable. (70 Stat. 776). Public Law No. 101–618 dated November 16, 1990, further made all

Washoe Project Facilities except Stampede Powerplant non-reimbursable. This was necessary because a 1982 court order requires that Stampede be operated for the benefit of endangered or threatened fish at Pyramid Lake.

#### Power Repayment Study

Western prepares a PRS each FY to determine if revenues are sufficient to repay, within the required time, all costs assigned to the Washoe Project power function. Repayment criteria are based on law, applicable policies, including DOE Order RA 6120.2, and authorizing legislation.

To serve project use loads and effectively market the energy from Stampede, Western has entered into a contract with a third party (Contractor) that provides for an energy banking arrangement and establishes the SEEA. The SEEA is an annual energy exchange account for Stampede energy. Under this third-party contract, the Contractor accepts delivery of all energy generated from Stampede. The monthly calculation of revenue from Stampede energy received by the Contractor is credited into the SEEA at the SEEA Rate. Western can use the SEEA to benefit project use facilities and market energy from Stampede to CVP Preference Customers.

In the SEEA, the revenues from sales (generation revenues) made at the SEEA Rate are reduced by the project use and station service power costs and SEEA administrative costs. In accordance with Western's Letter of Agreement (LOA) with Reclamation (LOA 07-SNR-01036), Western applies the ratio of projected project use costs to the projected generation revenue recorded in the SEEA to determine a non-reimbursable percentage. One hundred percent minus this non-reimbursable percentage establishes a reimbursable percentage. This reimbursable percentage is then applied to the appropriate power-related costs to determine the reimbursable costs for repayment. The reimbursable costs are then netted against generation revenues made at the SEEA Rate.

Beginning in August 2007, due to the change in the SEEA Rate, Western anticipates a reduction in the non-reimbursable percentage for the Washoe Project. This condition will subsequently increase reimbursable costs to the Preference Customers. Western estimates that the reimbursable O&M costs could increase between \$97,000 and \$284,000 annually due to the change in generation revenues.

The proposed formula rate will increase the Stampede Revenue for repayment of the Washoe Project, which

is directly attributable to the increased SEEA Rate. Under the 2004 Power Marketing Plan and the provisional formula rate, Western transfers any reimbursable costs remaining after netting them against Stampede Revenue to the CVP PRR. Western transfers revenues collected through the CVP PRR for Stampede reimbursable costs from the CVP to the Washoe Project annually.

#### Existing and Provisional Rates and Revenue Requirement

Rate schedule SNF-6 links the existing non-firm power formula rate to the terminated contract with Sierra. In addition, the index that Western uses in SNF-6 to set the "floor rate" in SNF-6 is linked to language contained in the terminated contract. These two conditions make it necessary for SNR to initiate a new rate case to align the non-firm power formula rate to future third-party contractors. The provisional formula rate SNF-7 will rectify the mismatches to the terminated contract and will continue to calculate the Stampede annual transferred PRR as a cost transferred to the CVP. The following table compares the existing and provisional non-firm power formula rate components as listed under the existing SNF-6 and provisional SNF-7 rate schedules.

#### COMPARISON OF EXISTING AND PROVISIONAL FLOOR/SEEA RATE AND REVENUE REQUIREMENT WASHOE PROJECT, STAMPEDE POWERPLANT

Non-firm energy sales and PRR	Existing rates	Provisional rates (effective 8/1/08)	Percent change
Rate Schedule .....	SNF-6	SNF-7	.....
Floor Rate or Average SEEA Rate (Mills/kWh) for the Rate Period .....	0.01789	0.04785	167
Average Estimated Stampede Annual Transferred PRR (\$) for Rate Period .....	323,139	250,194	-23

#### Certification of Rates

Western's Administrator certified the provisional non-firm power formula rate for Stampede is the lowest possible rate consistent with sound business principles. Western developed the provisional formula rate following administrative policies and applicable laws.

#### Non-Firm Power Formula Rate and PRR Discussion

According to Reclamation Law, Western must establish rates sufficient to recover O&M, other annual and interest expenses, and repay power investment and irrigation aid.

#### Statement of Revenue and Related Expenses

The following table provides a summary of projected revenues and expenses data for the Stampede non-firm power formula rate through the 5-year provisional rate approval period.

#### STAMPEDE NON-FIRM POWER FORMULA RATE REVENUE REQUIREMENT COMPARISON OF 5-YEAR RATE PERIOD (AUGUST 1, 2008-JULY 31, 2013)

[Total revenues and expenses <sup>1</sup>]

	Existing revenue requirement (\$000)	Provisional revenue requirement (\$000)	Difference (\$000)
Generation Revenue .....	\$1,073	\$2,886	\$1,813
Stampede Annual Transferred PRR (CVP Transfer Revenue) .....	1,939	1,501	(438)

## STAMPEDE NON-FIRM POWER FORMULA RATE REVENUE REQUIREMENT COMPARISON OF 5-YEAR RATE PERIOD (AUGUST 1, 2008–JULY 31, 2013)—Continued

[Total revenues and expenses <sup>1</sup>]

	Existing revenue requirement (\$000)	Provisional revenue requirement (\$000)	Difference (\$000)
Total Revenues .....	3,012	4,387	1,375
<i>Revenue Distribution</i>			
Expenses:			
O&M <sup>2</sup> .....	0	1,371	1,371
Project Use Expense .....	1,199	1,199	0
Interest .....	549	557	8
Total Expenses .....	1,748	3,127	1,379
Principal Payments: <sup>3</sup>			
Capitalized Deficits <sup>4</sup> .....	1,264	1,260	(4)
Original Project and Additions .....	0	0	0
Replacements .....	0	0	0
Irrigation .....	N/A	N/A	N/A
Total Principal Payments .....	1,264	1,260	(4)
Total Revenue Distribution .....	3,012	4,387	1,375

<sup>1</sup> Existing and proposed rates are based on a historical generation average. The difference between the two rates is (1) different generation valuation rates and (2) different reimbursable percentages as a result of the generation value.

<sup>2</sup> Western's LOA with Reclamation (SNR-07-01036) articulates the calculation methodology for determining non-reimbursable costs for Stampede. Based on this LOA, the reimbursable percentage was calculated at 0.0 percent for the existing rates and 59 percent for the proposed rate adjustment.

<sup>3</sup> For illustrative purposes, capital repayment for the existing and proposed ratesetting PRSs were set at identical levels in an effort to identify the impact of this rate adjustment on the Stampede Annual Transferred PRR.

<sup>4</sup> Deficits are projected to be repaid by 2014.

### Basis for Rate Development

In the SEEA, the revenues from sales (generation revenues) made at the SEEA Rate are reduced by the project use and station service power costs and SEEA administrative costs. Western applies the ratio of project use costs to the generation revenue recorded in the SEEA to determine a non-reimbursable percentage. One hundred percent minus this non-reimbursable percentage establishes a reimbursable percentage. This reimbursable percentage is then applied to the appropriate power-related costs to determine the reimbursable costs for repayment. The reimbursable costs are then netted against generation revenues made at the SEEA Rate. As stipulated under the 2004 Power Marketing Plan, any remaining reimbursable costs, to include interest and annual capital costs, are then transferred to the CVP for incorporation into the CVP PRR.

The provisional formula rate for Stampede power is:

$$\text{Stampede Annual Transferred PRR} = \text{Stampede Annual PRR} - \text{Stampede Revenue}$$

Where:

Stampede Annual Transferred Power Revenue Requirement (PRR) = Stampede Annual PRR as identified as a cost transferred to the CVP.

Stampede Annual PRR = The total PRR for Stampede required to repay all annual costs, including interest, and the investment within the allowable period. Stampede Revenue = Revenue from applying the SEEA rate to project generation.

Western will review the PRR for the Stampede Powerplant semiannually in or around March and September each year. Western will also review the CVP PRR in March and September of each year (71 FR 45821). The CVP rate procedures stipulate that Western will analyze the CVP financial data from October through February, to the extent information is available, as well as forecasted data for March through September. In the case of Stampede, Western will use the most current PRS and the disposition of the SEEA account up through February and estimate March through September and other financial data, to the extent information is available, to determine the amount of costs to include in the CVP PRR. In September, when the next review occurs, Western will use the same methodology to include costs in the CVP PRR for the following year.

### Comments

Western received no comments on the rate proposal during the public comment and consultation period that ended on March 7, 2008.

### Availability of Information

Information about this rate adjustment, including power repayment studies, comments, letters, memorandums, and other supporting material made or kept by Western and used to develop the provisional rate, is available for public review in the Sierra Nevada Regional Office, Western Area Power Administration, 114 Parkshore Drive, Folsom, California.

### Ratemaking Procedure Requirements

#### Environmental Compliance

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR Parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR Part 1021), Western has determined that this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

#### Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

*Submission to the Federal Energy Regulatory Commission*

The interim rate herein confirmed, approved, and placed into effect, together with supporting documents, will be submitted to FERC for confirmation and final approval.

**Order**

In view of the foregoing and under the authority delegated to me, I confirm and approve on an interim basis, effective August 1, 2008, Rate Schedule SNF-7 for the Washoe Project, Stampede Division of the Western Area Power Administration. The rate schedule shall remain in effect on an interim basis, pending FERC's confirmation and approval of them or substitute rate on a final basis through July 31, 2013.

Dated: July 14, 2008.

Jeffrey F. Kupfer,  
Acting Deputy Secretary.  
Rate Schedule SNF-7  
(Supersedes Schedule SNF-6)

**United States Department of Energy  
Western Area Power Administration  
Washoe Project, Stampede Division**

*Schedule of Rate for Non-Firm Power  
Formula Rate*

**Effective**

The first day of the first full billing period beginning on or after August 1, 2008, through July 31, 2013, or until superseded by another rate schedule, whichever occurs earlier.

**Available**

Within the marketing area served by the Sierra Nevada Customer Service Region.

**Applicable**

To preference customers under the 2004 Power Marketing Plan and the applicable third party(ies) who are under contract (Contractor) with Western.

**Character and Conditions of Service**

Alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

**Non-Firm Power Formula Rate**

In order to serve project use loads and effectively market the energy from Stampede, Western has contracted with a third-party Contractor that provides for a Stampede Energy Exchange Account (SEEA). The SEEA is an annual energy exchange account for Stampede energy. In the SEEA, the revenues from sales (generation revenues) made at the

SEEA Rate are reduced by the project use and station service power costs and SEEA administrative costs. Western applies the ratio of project use costs to the generation revenue recorded in the SEEA to determine a non-reimbursable percentage. One hundred percent minus this non-reimbursable percentage establishes a reimbursable percentage. This reimbursable percentage is then applied to the appropriate power-related costs to determine the reimbursable costs for repayment. The reimbursable costs are then netted against generation revenues made at the SEEA Rate. As stipulated under the 2004 Power Marketing Plan, any remaining reimbursable costs, to include interest and annual capital costs, are then transferred to the Central Valley Project for incorporation into the CVP Power Revenue Requirement.

The provisional formula rate for Stampede power is:

$$\text{Stampede Annual Transferred PRR} = \text{Stampede Annual PRR} - \text{Stampede Revenue}$$

*Where:*

Stampede Annual Transferred Power Revenue Requirement (PRR) = Stampede Annual PRR as identified as a cost transferred to the CVP.

Stampede Annual PRR = The total PRR for Stampede required to repay all annual costs, including interest, and the investment within the allowable period.

Stampede Revenue = Revenue from applying the SEEA Rate to project generation.

**Billing**

Billing for the SEEA Rate will be as specified in the service agreement.

**Adjustment for Losses**

Losses will be accounted for under this rate schedule as stated in the service agreement.

[FR Doc. E8-16744 Filed 7-21-08; 8:45 am]

**BILLING CODE 6450-01-P**

**ENVIRONMENTAL PROTECTION  
AGENCY**

**[EPA-HQ-OECA-2007-0128; FRL-8695-6]**

**Agency Information Collection  
Activities; Submission to OMB for  
Review and Approval; Comment  
Request; NESHAP for Ferroalloys  
Production: Ferromanganese and  
Silicomanganese (Renewal), ICR  
Number 1831.04, OMB Number 2060-  
0391**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

**DATES:** Additional comments may be submitted on or before August 21, 2008.

**ADDRESSES:** Submit your comments, referencing docket ID number EPA-HQ-OECA-2007-0128, to (1) EPA online using <http://www.regulations.gov> (our preferred method), or by e-mail to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov), or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Maria Malavé, Compliance Assessment and Media Programs Division, Mail Code 2223A, Office of Compliance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone number:* (202) 564-7027; *fax number:* (202) 564-0050; *e-mail address:* [malave.maria@epa.gov](mailto:malave.maria@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 FR 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA-HQ-OECA-2007-0128, which is available for public viewing online at <http://www.regulations.gov>, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the

Enforcement and Compliance Docket is (202) 566-1927.

Use the EPA electronic docket and comment system at <http://www.regulations.gov>, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note the EPA policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at <http://www.regulations.gov>, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to <http://www.regulations.gov>.

**Title:** NESHAP for Ferroalloys Production: Ferromanganese and Silicomanganese (Renewal).

**ICR Numbers:** EPA ICR Number 1831.04, OMB Number 2060-0391.

**ICR Status:** This ICR is scheduled to expire on September 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

**Abstract:** The National Emission Standards for Hazardous Air Pollutants (NESHAP) using Maximum Achievable Control Technology were proposed on August 4, 1998, promulgated on May 20, 1999, and amended most recently on March 22, 2001. The rule applies to ferroalloy production facilities that manufacture ferromanganese and silicomanganese that are major sources of hazardous air pollutants (HAPs) or are co-located at major sources of HAPs.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports. Respondents that are not required to conduct an initial performance test are required to notify the EPA

Administrator of the initial compliance status of the source. Sources are also required to monitor and maintain records of its operations including: (1) Process or control device parameters; (2) bag leak detention systems; (3) maintenance plan for air pollution control devices (e.g., capture system and venturi scrubbers); (4) certification that monitoring devices are accurate; and (5) the implementation and corrective actions taken related to the startup, shutdown and malfunction plan and the fugitive dust control plan. The types of periodic reports required by this regulation include: Opacity-related reports; performance test results reports; immediate and periodic startup/shutdown/malfunction reports, quarterly emissions reports; capture hood inspection reports; fugitive dust operations reports; and annual compliance status reports. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NESHAP standards.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average 83 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Ferroalloy production facilities that manufacture ferromanganese and silicomanganese and are either major sources of HAPs or are co-located at major sources of HAPs.

**Estimated Number of Respondents:** 1.  
**Frequency of Response:** Initially, annually, semiannually and quarterly.  
**Estimated Total Annual Hour Burden:** 584 hours.

**Estimated Total Annual Costs:** \$37,129 in Labor costs exclusively. There are no annualized capital/startup or O&M costs associated with this ICR.

**Changes in the Estimates:** There are no changes in the labor hours and cost in this ICR compared to the previous

ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is either very low, or negative, or non-existent, so there are no significant changes in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR, and there is no change in burden to industry.

Dated: July 16, 2008.

**Sara Hisel-McCoy,**

*Director, Collection Strategies Division.*

[FR Doc. E8-16739 Filed 7-21-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8695-8]

### Notice of Availability of Draft NPDES General Permits MAG7000 and NHG7000 for Discharges From Dewatering Activities in the States of Massachusetts and New Hampshire: the Dewatering General Permit (DGP)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Availability of Draft NPDES General Permits MAG7000 and NHG7000.

**SUMMARY:** The Director of the Office of Ecosystem Protection, EPA-New England, is issuing a notice of availability of the draft National Pollutant Discharge Elimination System (NPDES) general permits for dewatering activity discharges to certain waters of the Commonwealth of Massachusetts and the State of New Hampshire. These General Permits replace the Construction Dewatering General Permits which expired on September 23, 2007.

These draft General Permits establish Notice of Intent (NOI) requirements, effluent limitations, standards, prohibitions, and management practices for facilities with dewatering activity discharges from construction dewatering, flushing of potable water lines, pump testing of water wells, and dewatering of foundation sumps. Owners and/or operators of facilities with dewatering discharges, including those currently authorized to discharge under the expired General Permits, will be required to submit an NOI to be covered by the General Permit to both EPA-New England and the appropriate

state agency. After EPA and the State have reviewed the NOI, the facility will receive a written notification from EPA of permit coverage and authorization to discharge under the General Permit. The purpose of this document is to solicit public comments on the proposed General Permits.

**Public Comment Period:** Interested persons may submit written comments on the draft General Permits to the EPA-Region I at the address listed below. Within the comment period, interested persons may also request, in writing, that EPA hold a public hearing pursuant to 40 CFR section 124.12, concerning the draft General Permits. Such requests shall state the nature of the issues proposed to be raised at the hearing. A public hearing may be held at least thirty days after public notice whenever the Regional Administrator finds that response to this notice indicates significant public interest. In reaching a final decision on this draft permit, the Regional Administrator will respond to all significant comments and make responses available to the public at EPA's Boston office. In addition to comments on the draft General Permit, EPA is also requesting comments on the cost associated with a limit for total residual chlorine (TRC) for discharges containing potable water. All comments and requests for public hearings must be postmarked or delivered before midnight August 21, 2008, the close of the public comment period. All public comments or requests for a public hearing must be submitted to the address below.

**ADDRESSES:** Written comments on the draft General Permit may be hand delivered or mailed to Ms. Sara Green, EPA-Region 1, Office of Ecosystem Protection, CIP, 1 Congress Street, Suite 1100, Boston, Massachusetts 02114-2023, or sent via e-mail to [green.sara@epa.gov](mailto:green.sara@epa.gov). No facsimiles (faxes) will be accepted.

**FOR FURTHER INFORMATION:** For further information contact Ms. Green at 617/918-1574, between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding holidays. The draft General Permits are based on an administrative record available for public review at EPA-Region 1, Office of Ecosystem Protection, 1 Congress Street, Suite 1100, Boston, Massachusetts 02114-2023, Monday-Friday from 9 a.m.-5 p.m. The draft General Permits and a Fact Sheet may also be viewed over the Internet via the EPA-Region 1 Web site. The Fact Sheet and General Permit for dischargers in Massachusetts are at <http://www.epa.gov/ne/npdes/mass.html>. The Fact Sheet and General

Permit for dischargers in New Hampshire are at <http://www.epa.gov/ne/npdes/newhampshire.html>. To obtain a paper copy of the documents, please contact Ms. Green using the contact information provided above. A reasonable fee may be charged for copying requests.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Flexibility Analysis**

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The legal question of whether a general permit (as opposed to an individual permit) qualifies as a "rule" or as an "adjudication" under the Administrative Procedure Act (APA) has been the subject of periodic litigation. In a recent case, the court held that the Clean Water Act (CWA) Section 404 Nationwide general permit before the court did qualify as a "rule" and therefore that the issuance of the general permit needed to comply with the applicable legal requirements for the issuance of a "rule." *National Ass'n of Home Builders v. U.S. Army Corps of Engineers*, 417 F.3d 1272, 1284-85 (DC Cir. 2005) (Army Corps general permits under Section 404 of the Clean Water Act are rules under the APA and the Regulatory Flexibility Act; "Each NWP [nationwide permit] easily fits within the APA's definition of a 'rule.' \* \* \* As such, each NWP constitutes a rule \* \* \*").

As EPA stated in 1998, "the Agency recognizes that the question of the applicability of the APA, and thus the RFA, to the issuance of a general permit is a difficult one, given the fact that a large number of dischargers may choose to use the general permit." 63 FR 36489, 36497 (July 6, 1998). At that time, EPA "reviewed its previous NPDES general permitting actions and related statements in the **Federal Register** or elsewhere," and stated that "[t]his review suggests that the Agency has generally treated NPDES general permits effectively as rules, though at times it has given contrary indications as to whether these actions are rules or permits." *Id.* at 36496. Based on EPA's further legal analysis of the issue, the Agency "concluded, as set forth in the proposal, that NPDES general permits

are permits [i.e., adjudications] under the APA and thus not subject to APA rulemaking requirements or the RFA." *Id.* Accordingly, the Agency stated that "the APA's rulemaking requirements are inapplicable to issuance of such permits," and thus "NPDES permitting is not subject to the requirement to publish a general notice of proposed rulemaking under the APA or any other law \* \* \* [and] it is not subject to the RFA." *Id.* at 36497.

However, the Agency went on to explain that, even though EPA had concluded that it was not legally required to do so, the Agency would voluntarily perform the RFA's small-entity impact analysis. *Id.* EPA explained the strong public interest in the Agency following the RFA's requirements on a voluntary basis: "[The notice and comment] process also provides an opportunity for EPA to consider the potential impact of general permit terms on small entities and how to craft the permit to avoid any undue burden on small entities." *Id.* Accordingly, with respect to the NPDES permit that EPA was addressing in that **Federal Register** notice, EPA stated that "the Agency has considered and addressed the potential impact of the general permit on small entities in a manner that would meet the requirements of the RFA if it applied." *Id.*

Subsequent to EPA's conclusion in 1998 that general permits are adjudications, rather than rules, as noted above, the DC Circuit recently held that nationwide general permits under section 404 are "rules" rather than "adjudications." Thus, this legal question remains "a difficult one" (*supra*). However, EPA continues to believe that there is a strong public policy interest in EPA applying the RFA's framework and requirements to the Agency's evaluation and consideration of the nature and extent of any economic impacts that a CWA general permit could have on small entities (e.g., small businesses). In this regard, EPA believes that the Agency's evaluation of the potential economic impact that a general permit would have on small entities, consistent with the RFA framework discussed below, is relevant to, and an essential component of, the Agency's assessment of whether a CWA general permit would place requirements on dischargers that are appropriate and reasonable. Furthermore, EPA believes that the RFA's framework and requirements provide the Agency with the best approach for the Agency's evaluation of the economic impact of general permits on small entities. While using the RFA



framework to inform its assessment of whether permit requirements are appropriate and reasonable, EPA will also continue to ensure that all permits satisfy the requirements of the Clean Water Act. Accordingly, EPA has committed to operating in accordance with the RFA's framework and requirements during the Agency's issuance of CWA general permits (in other words, the Agency has committed that it will apply the RFA in its issuance of general permits as if those permits do qualify as "rules" that are subject to the RFA).

EPA anticipates that for most general permits the Agency will be able to conclude that there is not a significant economic impact on a substantial number of small entities. In such cases, the requirements of the RFA framework are fulfilled by including a statement to this effect in the permit fact sheet, along with a statement providing the factual basis for the conclusion. A quantitative analysis of impacts would only be required for permits that may affect a substantial number of small entities, consistent with EPA guidance regarding RFA certification.<sup>1</sup>

Consistent with the above discussion, EPA has concluded that the proposed issuance of the 2008 DGP would not affect a substantial number of small entities. An estimated 36 construction projects per year were authorized under the 2002 General Permits, a substantial number of which were not operated by small entities. The 2008 DGP includes expanded coverage for additional types of discharges; however, these discharges are temporary in nature. At any one time, fewer than 100 small entities are expected to be discharging and incurring costs. In addition, requirements in the draft 2008 DGP remain substantially similar to those in the 2002 General Permit, except for the addition of total residual chlorine (TRC) limits for discharges from municipal sources. Therefore, EPA has concluded that the proposed issuance of the 2008 DGP is unlikely to have an adverse economic impact on small entities.

Dated: July 14, 2008.

**Robert W. Varney,**

*Regional Administrator, Region 1.*

[FR Doc. E8-16740 Filed 7-21-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8695-5]

### Notice of Availability of the Draft Demonstration of Alternative Asbestos Control Method Demolition for Two Asbestos-Containing Buildings and Expert Peer Review Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of document availability and external peer review meeting.

**SUMMARY:** The U.S. Environmental Protection Agency is announcing the availability for review and comment of two draft reports titled, Evaluation of the Alternative Asbestos Control Method at Site Two (AACM2) for Demolition of Asbestos-Containing Buildings, and Evaluation of the Alternative Asbestos Control Method at Site Three (AACM3) for Demolition of Asbestos-Containing Buildings. These reports were prepared by EPA's Office of Research and Development (ORD) and are available through docket ID number EPA-HQ-ORD-2008-0523 located at <http://www.regulations.gov> and through <http://www.epa.gov/region6/6xa/asbestos>.

EPA is also announcing that in the month of August or September an EPA contractor will convene a panel of experts and will organize and conduct an independent expert external peer review meeting of the two reports. The dates and location of the peer review meeting will be provided in a separate **Federal Register** Notice. The public will be invited to register to attend the peer review meeting as observers and also will be able to give oral or provide written comments at the meeting. The expert panel will review the scientific and technical aspects of the draft documents and consider public comments received prior to the meeting in the official public docket for this activity under docket ID number EPA-HQ-ORD-2008-0523.

The public release of these draft documents is solely for the purpose of seeking public comment and external peer review. The draft reports do not represent and should not be construed to represent any final EPA by policy, viewpoint, or determination.

**DATES:** The 30-day public comment period on the two draft documents begins July 22, 2008, and ends August 21, 2008. All comments should be in writing and must be received by EPA by August 21, 2008. The dates and location of the peer review meeting will be announced at a later date in a subsequent **Federal Register** Notice.

**ADDRESSES:** You may submit comments on these documents to Docket ID No. EPA-HQ-ORD-2008-0523 by one of the following methods:

- <http://www.regulations.gov>: Follow the online instructions for submitting comments.

- *E-mail:* [ORD.Docket@epa.gov](mailto:ORD.Docket@epa.gov).

- *Mail:* ORD Docket, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

- *Hand Delivery:* EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-ORD-2008-0523. Deliveries are only accepted from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-ORD-2008-0523. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in

<sup>1</sup> EPA's current guidance, entitled Final Guidance for EPA Rulewriters: Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement and Fairness Act, was issued in November 2006 and is available on EPA's Web site: <http://www.epa.gov/sbrefa/documents/rfafinalguidance06.pdf>. After considering the Guidance and the purpose of CWA general permits, EPA concludes that general permits affecting fewer than 100 small entities do not have a significant economic impact on a substantial number of small entities.



the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov/index>. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the ORD Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the ORD Docket is (202) 566-1752.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding the draft documents, please contact Roger Wilmoth, Office of Research and Development, Telephone (513) 569-7509, fax number (513) 569-7471, [Wilmoth.Roger@epa.gov](mailto:Wilmoth.Roger@epa.gov); U.S. Environmental Protection Agency, Mail Code 445, 26 West Martin Luther King Drive, Cincinnati, OH 45268.

**SUPPLEMENTARY INFORMATION:** EPA is submitting the draft reports for independent, external scientific and technical peer review. The draft reports provide the documentation and scientific evaluation of the environmental effectiveness of the draft AACM protocol as a possible alternative technology in controlling multimedia asbestos emissions during demolition of asbestos-containing buildings, as required by the existing Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP). The draft AACM demolition protocol was used on two separate buildings. One building contained NESHAP-regulated quantities of asbestos-containing transite siding and the second building contained NESHAP-regulated quantities of asbestos-containing popcorn ceiling and wall surfacing material. In addition to assessing the environmental effectiveness of the draft AACM

technology, these two draft reports assess the costs and time requirements of the application of the AACM protocol in these situations, as well as document lessons learned in each instance.

Public comments received in the docket will be shared with the external peer review panel for their consideration. Although EPA is under no obligation to do so, EPA may consider comments received after the close of the comment period. The public release of this draft document is solely for the purpose of seeking public comment and peer review, and does not represent and should not be construed to represent any EPA policy, viewpoint, or determination.

Dated: July 15, 2008.

**Fred S. Hauchman,**

*Acting Director, Office of Science Policy,  
Office of Research and Development.*

[FR Doc. E8-16745 Filed 7-21-08; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL HOUSING FINANCE BOARD

### Sunshine Act Meeting Notice; Announcing a Closed Meeting of the Board of Directors

**TIME AND DATE:** A closed meeting of the Board of Directors is scheduled to begin at 10 a.m. on Wednesday, July 23, 2008.

**PLACE:** Board Room, First Floor, Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

**STATUS:** The meeting will be closed to the public.

#### MATTER TO BE CONSIDERED AT THE

**MEETING:** Periodic Update of Examination Program Development and Supervisory Findings.

**CONTACT PERSON FOR MORE INFORMATION:** Shelia Willis, Paralegal Specialist, Office of General Counsel, at 202-408-2876 or [williss@fhfb.gov](mailto:williss@fhfb.gov).

By the Federal Housing Finance Board.

Dated: July 16, 2008.

**Neil R. Crowley,**

*Deputy General Counsel.*

[FR Doc. 08-1453 Filed 7-17-08; 11:06 am]

**BILLING CODE 6725-01-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank

holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 6, 2008.

**A. Federal Reserve Bank of Minneapolis** (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *John Richard Doherty*, Oswego, Illinois, to retain voting shares of West End Financial Corporation, and thereby indirectly retain control of Gogebic Range Bank, both of Bessemer, Michigan.

**B. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *The Gayle Gourley Trust, The W.J. Gourley, 111, Trust, and The Mary Theresa Lott Trust, Richard A. Griffin, Charles Lasater, Henry W. Simon, Jr., John W. Windle, and B. Ted Woodle*, all of Fort Worth, Texas, and Jack S. Lewis, Arlington, Texas, all as trustees, to acquire an interest in Texas American Acquisition Group, Inc. Fort Worth, Texas, and thereby indirectly acquire an interest in Liberty Bank, North Richland Hills, Texas.

Board of Governors of the Federal Reserve System, July 17, 2008.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E8-16719 Filed 7-21-08; 8:45 am]

**BILLING CODE 6210-01-S**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 15, 2008.

**A. Federal Reserve Bank of Boston**  
(Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106-2204:

1. *WebFive, MHC and WebFive Financial Services, Inc.*, both of Webster, Massachusetts, to become bank holding companies by acquiring Webster Five Cents Savings Bank, Webster, Massachusetts.

Board of Governors of the Federal Reserve System, July 17, 2008.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc.E8-16718 Filed 7-21-08; 8:45 am]

BILLING CODE 6210-01-S7<

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Findings of Scientific Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) and the *Assistant Secretary for Health* have taken final action in the following case:

*Roxana Gonzalez, Carnegie Mellon University:* Based on reports submitted by Carnegie Mellon University's (CMU) inquiry and investigation committees, the Respondent's own admission in sworn testimony, and additional analysis conducted by the Office of Research Integrity (ORI) during its

oversight review, the U.S. Public Health Service (PHS) found that Roxana Gonzalez, graduate student, Department of Social and Decision Sciences and Psychology, CMU, engaged in scientific misconduct in research supported by National Institute of Mental Health (NIMH), National Institutes of Health (NIH), grants R01 MH56880, R03 MH62376, and R24 MH67346.

*Specifically, PHS found that Ms. Gonzalez engaged in the following acts of scientific misconduct:*

1. Respondent altered the main dependent variable (life events; life expectation) in the electronic file and the manipulation check variables for ease-of-thought generation so that the reported study results are largely unsupported in:

(a) *Publication:* Lerner, J.S., & Gonzalez, R.M. "Forecasting one's future based on fleeting subjective experiences." *Personality and Social Psychology Bulletin* 31:454-466, 2005;

(b) *2005 Manuscript:* Lerner, J. S., & Gonzalez, R. M. "On perceiving the self as triumphant when happy or angry";

(c) *Review Article:* Lerner J. S., Tiedens, L.Z., & Gonzalez, R. M. "Portrait of the angry decision maker: How appraisal tendencies shape anger's influence on cognition." *Journal of Behavioral Decision Making: Special Issue on Emotion and Decision Making*.

2. Respondent falsified cortisol values, and possibly cardiovascular measures and optimistic appraisals (as measured by LOT), so that a large portion of the mediation analyses of Table 3 does not reflect the data actually collected and analyzed for the study reported in a publication (Lerner, J.S., Gonzalez, R.M., Dahl, R.E., Hariri, A.R., & Taylor, S.E. "Facial expressions of emotion reveal neuroendocrine and cardiovascular stress responses." *Biological Psychiatry* 58:743-750, 2005).

Respondent further allowed one of her collaborators to report the results from this study at the Annual Meeting of the American Psychological Society held in Los Angeles, California in May 2005, although Respondent's collaborator did not know at the time that the results were tainted by Respondent's acts of research misconduct.

3. Respondent falsified the analyses based on participants' responses to the manipulation check items (including the data for self reported fear) in a study reported in a publication (Fischhoff, B., Gonzalez, R.M., Lerner, J.S., & Small, D.A. "Evolving judgments of terrorism's risks: Foresight, hindsight, and emotion." *Journal of Experimental Psychology: Applied* 11:124-139, 2005).

4. Respondent falsified the main dependent variable (reservation price,

BDM) in the electronic file for 48 of the 175 subjects participating in a study reported in a 2005 manuscript (Lerner, J.S., Gonzalez, R.M., Small, D.A., Lowenstein, G., & Dahl, R.E. "Emotional influence on economic behavior among adolescents."). Respondent directed the alteration of the paper files for those subjects in order to match the altered electronic file. One of Respondent's collaborators included a qualitative description of the results of the research that is the subject of this study in an NIH grant application, although Respondent's collaborator did not know at the time that the results were tainted by the Respondent's acts of research misconduct.

ORI acknowledges Ms. Gonzalez' extensive cooperation with CMU's research misconduct proceedings.

*Ms. Gonzalez has entered into a Voluntary Exclusion Agreement (Agreement) in which she has voluntarily agreed, beginning on June 26, 2008:*

(1) To exclude herself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant or contractor to PHS, for a period of three (3) years;

(2) That for a period of three (3) years, any institution that submits an application for PHS support for a research project on which the Respondent's participation is proposed or that uses the Respondent in any capacity on PHS supported research, or that submits a report of PHS-funded research in which the Respondent is involved, must concurrently submit a plan for supervision of the Respondent's duties to the funding agency for approval; the supervisory plan must be designed to ensure the scientific integrity of the respondent's research contribution; Respondent agrees to ensure that a copy of the supervisory plan is also submitted to ORI by the institution; Respondent agrees that she will not participate in any PHS-supported research until such a supervisory plan is submitted to ORI;

(3) for a period of three (3) years to ensure that any institution employing her submits, in conjunction with each application for PHS funds or report, manuscript, or abstract of PHS-funded research in which the Respondent is involved, a certification that the data provided by the Respondent are based on actual experiments or are otherwise legitimately derived, and that the data, procedures, analyses, and methodology are accurately reported in the application, report, manuscript or abstract; the Respondent must ensure

that the institution sends a copy of the certification to ORI; and

(4) to write ORI-approved letters to (a) collaborators/coauthors of the manuscripts and published papers cited above, stating what she falsified/fabricated and offering restitution; and (b) editors of the journals in which papers were published (even if they have been retracted/corrected) to state that her falsifications/fabrications were the underlying reason for the retraction/correction.

**FOR FURTHER INFORMATION CONTACT:**

Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453-8800.

**Chris B. Pascal,**

*Director, Office of Research Integrity.*

[FR Doc. E8-16741 Filed 7-21-08; 8:45 am]

**BILLING CODE 4150-31-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention (CDC)**

**Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Preparedness and Emergency Response Research Centers: A Public Health System Approach-Secondary Review Committee (SRC), Program Announcement Number (PA) TP 08-001**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

*Time and Date:* 8:30 a.m.-5 p.m., August 7, 2008 (Closed).

*Place:* CDC, Global Communication Center, 1600 Clifton Road, NE., Atlanta, GA 30333, (404) 639-3995.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

*Matters to be Discussed:* The meeting will include the review, discussion, and evaluation of applications received in response to "Preparedness and Emergency Response Research Centers: A Public Health System Approach-SRC," PA TP 08-001.

*For Further Information Contact:* Daniel M. Sosin, M.D., M.P.H., Senior Advisor for Science, Office of the Director, Coordinating Office for Terrorism Preparedness and Emergency Response, CDC, 1600 Clifton Road, NE., Mailstop K72, Atlanta, GA 30333, Telephone (770) 488-8806.

The Director, Management Analysis and Services Office, has been delegated the

authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: July 15, 2008.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E8-16720 Filed 7-21-08; 8:45 am]

**BILLING CODE 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

**Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Impact of Cultural and Socioeconomic Factors on Post-Treatment Surveillance Among African Americans With Colorectal Cancer, Potential Extramural Project (PEP) 2008-R-03.**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

*Time and Date:* 1 p.m.-3 p.m., August 6, 2008 (Closed).

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

*Matters to be Discussed:* The meeting will include the review, discussion, and evaluation of "Impact of Cultural and Socioeconomic Factors on Post-Treatment Surveillance among African Americans with Colorectal Cancer, PEP 2008-R-03."

*For Further Information Contact:* Linda Shelton, Program Specialist, Coordinating Center for Health and Information Service, Office of the Director, CDC, 1600 Clifton Road, NE., Mailstop E21, Atlanta, GA 30333, Telephone (404)498-1194. The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: July 16, 2008.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E8-16721 Filed 7-21-08; 8:45 am]

**BILLING CODE 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

**Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Elimination of Health Disparities Through Translation Research (Panel A-1), Funding Opportunity Announcement (FOA), CD08-001**

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

*Time and Date:* 12:30 p.m.-3:30 p.m., August 6, 2008 (Closed).

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

*Matters to be Discussed:* The meeting will include the review, discussion, and evaluation of "Elimination of Health Disparities through Translation Research (Panel A-1), FOA CD08-001."

*Contact Person for More Information:* Maurine F. Goodman, M.A., M.P.H., Scientific Review Administrator, CDC, 1600 Clifton Road, NE., Mailstop D72, Atlanta, GA 30333, Telephone (404) 639-4737.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: July 15, 2008.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E8-16722 Filed 7-21-08; 8:45 am]

**BILLING CODE 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

**Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Elimination of Health Disparities Through Translation Research (Panel D), Funding Opportunity Announcement (FOA), CD08-001**

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease

Control and Prevention (CDC) announces the aforementioned meeting:

*Time and Date:* 12:30 p.m.–3:30 p.m.,

August 5, 2008 (Closed).

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

*Matters to be Discussed:* The meeting will include the review, discussion, and evaluation of “Elimination of Health Disparities through Translation Research (Panel D), FOA CD08–001.”

Contact person for more information: Maurine F. Goodman, M.A., M.P.H., Scientific Review Administrator, CDC, 1600 Clifton Road, NE., Mailstop D72, Atlanta, GA 30333, Telephone (404) 639–4737.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: July 15, 2008.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E8–16725 Filed 7–21–08; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–21, CMS–10150, and CMS–484]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency’s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or

other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Withholding Medicare Payments to Recover Medicaid Overpayments and Supporting Regulations in 42 CFR 44.31; *Use:* Overpayments may occur in either the Medicare and Medicaid program, at times resulting in a situation where an institution or person that provides services owes a repayment to one program while still receiving reimbursement from the other. Certain Medicaid providers which are subject to offsets for the collection of Medicaid overpayments may terminate or substantially reduce their participation in Medicaid, leaving the State Medicaid Agency unable to recover the amounts due. These information collection requirements give CMS the authority to recover Medicaid overpayments by offsetting payments due to a provider under the program. *Form Number:* CMS–R–21 (OMB# 0938–0287); *Frequency:* On occasion; *Affected Public:* State, Local or Tribal Governments; *Number of Respondents:* 54; *Total Annual Responses:* 27; *Total Annual Hours:* 81.

2. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Collection of Drug Pricing and Network Pharmacy Data from Medicare Prescription Drug Plans (PDPs and MA–PDs) and Supporting Regulations in 42 CFR 423.48; *Use:* Both stand alone prescription drug plans (PDPs) and Medicare Advantage Prescription Drug (MA–PDs) plans are required to submit drug pricing and pharmacy network data to CMS and these data are made publicly available to people with Medicare through the Medicare Prescription Drug Plan Finder Web tool on <http://www.medicare.gov>. Drug prices vary across a plans pharmacy network based on the contracts that each plan negotiates with each pharmacy or pharmacy chain in their networks. The pharmacy networks can change during the course of the year as new pharmacies open, close, change ownership, or plans negotiate new contracts with pharmacies resulting in different dispensing fees for prescriptions. Drug prices also change frequently due to the daily fluctuation of the Average Wholesale Price (AWP), thus plans increase or decrease their drug prices to reflect these changes. The purpose of the data is to enable prospective and current Medicare

beneficiaries to compare, learn, select and enroll in a plan that best meets their needs. The database structure provides the necessary drug pricing and pharmacy network information to accurately communicate plan information in a comparative format. *Form Number:* CMS–10150 (OMB# 0938–0951); *Frequency:* Bi-weekly; *Affected Public:* Business or other for-profits; *Number of Respondents:* 680; *Total Annual Responses:* 17,680; *Total Annual Hours:* 70,720.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Durable Medical Equipment Regional Carrier, Certificate of Medical Necessity for Oxygen and Supporting Regulations in 42 CFR 410.38 and 424.5; *Use:* The oxygen certificate of medical necessity (CMN) collects information required to help determine the medical necessity of home oxygen therapy for Medicare beneficiaries. CMS requires CMNs where items may present a vulnerability to the Medicare program. Each claim for these items must have an associated CMN for the beneficiary. In order to determine if a beneficiary needs home oxygen therapy, a qualifying blood gas study must be performed and it must comply with the DMERCs Oxygen Medical Policy on the standards for conducting the test and also be covered under Medicare Part B. A beneficiary must be seen and evaluated by the treating physician within specific timeframes as indicated by the Oxygen Medical Policy in order to complete an Initial CMN Certification, a Recertification CMN and a Revised CMN Certification. *Form Number:* CMS–484 (OMB# 0938–0534); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits; *Number of Respondents:* 15,000; *Total Annual Responses:* 1,630,000; *Total Annual Hours:* 326,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS’s Web Site at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov), or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by September 22, 2008:

1. *Electronically.* You may submit your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number \_\_\_\_\_, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: July 11, 2008.

**Michelle Shortt,**

Director, Regulations Development Group,  
Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8-16777 Filed 7-21-08; 8:45 am]

BILLING CODE 4120-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10257, CMS-R-263 and CMS-10097]

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* National Medicare Training Program Training Needs Assessment Survey; *Use:* The Centers for Medicare and Medicaid

Services (CMS) is requesting clearance for an Online Needs Assessment Survey that will inform the National Medicare Training Program (NMTP) in their efforts to develop materials vital to the performance of key Medicare partners. NMTP communicates information about a wide array of Medicare topics to a diverse audience of partner organizations through in-person workshops, teleconferences, and Online training materials. These partner organizations include other state and federal agencies, health plans, aging networks/coalitions, long term care institutions, disability/mental health providers and advocates, HIV/AIDS providers, other health care providers and disease-specific advocacy groups, faith based organizations, and racial/ethnic minority organizations. These partners extend the reach of NMTP to population segments that have information barriers, including language, literacy, location, and culture, to help them understand the varied and sometimes complex choices about how they receive their Medicare benefits. This survey will allow NMTP to assess the education and training needs of its partner organizations on an annual basis, to ensure that they have the information and materials they need to assist the beneficiaries they serve. *Form Number:* CMS-10257 (OMB# 0938-New); *Frequency:* Yearly; *Affected Public:* Not-for-profit institutions, State, Local and Tribal governments, Federal Government; *Number of Respondents:* 4,000; *Total Annual Responses:* 4,000; *Total Annual Hours:* 1,000.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Site Investigation for Durable Medical Equipment (DME) Suppliers; *Use:* The Centers for Medicare and Medicaid Services (CMS) enrolls durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) suppliers into the Medicare program via a uniform application, the CMS 855S. Implementation of enhanced procedures for verifying the enrollment information has improved the enrollment process as well as identified and prevented fraudulent DMEPOS suppliers from entering the Medicare program. As part of this process, verification of compliance with supplier standards is necessary. The site investigation form has been used in the past to aid the Medicare contractor (the National Supplier Clearinghouse (NSC) and/or its subcontractors) in verifying compliance with the required supplier standards found in 42 CFR 424.57(c). The primary

function of the site investigation form is to provide a standardized, uniform tool to gather information from a DMEPOS supplier that tells us whether it meets certain qualifications to be a DMEPOS supplier (as found in 42 CFR 424.57(c)) and where it practices or renders its services. *Form Number:* CMS-R-263 (OMB# 0938-0749); *Frequency:* Occasionally; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 30,000; *Total Annual Responses:* 30,000; *Total Annual Hours:* 15,000.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* The Annual Medicare Contractor Provider Satisfaction Survey (MCPSS); *Use:* Medicare Contractors are charged with processing Medicare claims and related activities and providers interact with them on a daily basis. The Medicare Contractor Provider Satisfaction Survey (MCPSS) measures this Provider-Contractor relationship. The Contractors are currently using, and will continue to use, the MCPSS results to implement performance improvement activities within their organizations. The MCPSS questionnaire includes the following topics: Provider inquiries, provider outreach & education, claims processing, appeals, provider enrollment, medical review, and provider audit & reimbursement. The Survey is designed to measure provider satisfaction, attitudes, perceptions and opinions about the services provided by their respective Contractor. The results include quantitative data (a satisfaction score) and qualitative information (comments relevant to specific topics).

The 2009 MCPSS will differ from 2008 in two ways, (refer to the specific documents for additional changes): (1) The questionnaire will be slightly modified, including the net addition of two questions; and (2) the definition of a completed survey will be revised. *Form Number:* CMS-10097 (OMB# 0938-0915); *Frequency:* Yearly; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 24,279; *Total Annual Responses:* 24,279; *Total Annual Hours:* 8346.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov), or call the

Reports Clearance Office on (410) 786-1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on August 21, 2008.

OMB Human Resources and Housing Branch, Attention: OMB Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503, *Fax Number:* (202) 395-6974.

Dated: July 11, 2008.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. E8-16778 Filed 7-21-08; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Advisory Commission of Childhood Vaccines; Request for Nominations for Voting Members

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Health Resources and Services Administration (HRSA) is requesting nominations to fill three vacancies on the Advisory Commission on Childhood Vaccines (ACCV). The ACCV was established by title XXI of the Public Health Service Act (the Act), as enacted by Public Law (Pub. L.) 99-660 and as subsequently amended, and advises the Secretary of Health and Human Services (the Secretary) on issues related to implementation of the National Vaccine Injury Compensation Program (VICP).

**DATES:** The agency must receive nominations on or before August 21, 2008.

**ADDRESSES:** All nominations are to be submitted to the Director, Division of Vaccine Injury Compensation, Healthcare Systems Bureau (HSB), HRSA, Parklawn Building, Room 11C-26, 5600 Fishers Lane, Rockville, Maryland 20857.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michelle Herzog, Principal Staff Liaison, Policy Analysis Branch, Division of Vaccine Injury Compensation, HSB, HRSA at (301) 443-0650 or e-mail: [mherzog@hrsa.gov](mailto:mherzog@hrsa.gov).

**SUPPLEMENTARY INFORMATION:** Under the authorities that established the ACCV,

the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and section 2119 of the Act, 42 U.S.C. 300aa-19, as added by Pub. L. 99-660 and amended, HRSA is requesting nominations for three voting members of the ACCV.

The ACCV advises the Secretary on the implementation of the VICP. The activities of the ACCV include: Recommending changes in the Vaccine Injury Table at its own initiative or as the result of the filing of a petition; advising the Secretary in implementing section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions; surveying Federal, State, and local programs and activities related to gathering information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b); advising the Secretary on the methods of obtaining, compiling, publishing, and using credible data related to the frequency and severity of adverse reactions associated with childhood vaccines; consulting on the development or revision of the Vaccine Information Statements; and recommending to the Director of the National Vaccine Program that vaccine safety research be conducted on various vaccine injuries.

The ACCV consists of nine voting members appointed by the Secretary as follows: (1) Three health professionals, who are not employees of the United States Government and have expertise in the health care of children, and the epidemiology, etiology, and prevention of childhood diseases, and the adverse reactions associated with vaccines, at least two shall be pediatricians; (2) three members from the general public, at least two shall be legal representatives (parents or guardians) of children who have suffered a vaccine-related injury or death; and (3) three attorneys, at least one shall be an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death, and one shall be an attorney whose specialty includes representation of vaccine manufacturers. In addition, the Director of the National Institutes of Health, the Assistant Secretary for Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of the Food and Drug Administration (or the designees of such officials) serve as nonvoting ex officio members.

Specifically, HRSA is requesting nominations for three voting members of the ACCV representing: (1) A health professional, who has expertise in the health care of children; and the

epidemiology, etiology, and prevention of childhood diseases; (2) a member of the general public who is the legal representative of a child who has suffered a vaccine injury or death; and (3) an attorney with no specific affiliation. Nominees will be invited to serve a 3-year term beginning January 1, 2009, and ending December 31, 2011.

Interested persons may nominate one or more qualified persons for membership on the ACCV. Nominations shall state that the nominee is willing to serve as a member of the ACCV and appears to have no conflict of interest that would preclude the ACCV membership. Potential candidates will be asked to provide detailed information concerning consultancies, research grants, or contracts to permit evaluation of possible sources of conflicts of interest. A curriculum vitae or resume should be submitted with the nomination.

The Department of Health and Human Services has special interest in assuring that women, minority groups, and the physically disabled are adequately represented on advisory committees; and therefore, extends particular encouragement to nominations for appropriately qualified female, minority, or disabled candidates.

Dated: July 16, 2008.

**Alexandra Huttlinger,**

*Director, Division of Policy Review and Coordination.*

[FR Doc. E8-16773 Filed 7-21-08; 8:45 am]

**BILLING CODE 4165-15-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104-13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or call the HRSA

Reports Clearance Officer on (301) 443-1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information

on respondents, including through the use of automated collection techniques or other forms of information technology.

**Proposed Project: Application for Certification and Recertification as a Federally Qualified Health Center (FQHC) Look-Alike (OMB No. 0915-0142): Extension**

The Health Resources and Services Administration (HRSA) collects

applicant information for organizations applying for certification or recertification as a Federally Qualified Health Center (FQHC) Look-Alike for purposes of cost-based reimbursement under the Medicaid and Medicare programs. The information contained in the application guide reflects legislative, policy, and technical requirements for applicant organizations.

The estimated annual burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Application .....	40	1	40	100	4,000
Recertification .....	100	1	100	15	1,500
Total .....	140	.....	140	.....	5,500

E-mail comments to [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or mail the HRSA Reports Clearance Officer, Room 10-33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 15, 2008.

**Alexandra Huttinger,**  
Director, Division of Policy Review and Coordination.

[FR Doc. E8-16774 Filed 7-21-08; 8:45 am]

BILLING CODE 4165-15-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Resources and Services Administration**

**Agency Information Collection Activities: Proposed Collection: Comment Request**

In compliance with the requirement for opportunity for public comment on proposed data collection projects

(section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104-13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or call the HRSA Reports Clearance Officer on (301) 443-1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information collected will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information

on respondents, including through the use of automated collection techniques or other forms of information technology.

**Proposed Project: The National Health Service Corps Uniform Data System (OMB No. 0915-0232) Extension**

The Health Resources and Services Administration (HRSA), Bureau of Clinician Recruitment and Service (BCRS) places National Health Service Corps (NHSC) health care professionals at sites that provide services to underserved and vulnerable populations. The NHSC Uniform Data System (UDS) report is completed by sites which receive the placement of an NHSC provider, if those sites are not currently receiving HRSA grant support. The NHSC UDS provides information that is utilized for monitoring and evaluation of program operations and effectiveness, and to accurately report on the scope of supported activities.

The estimated annual burden is as follows:

Instrument	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Uniform Data System .....	1,200	1	1,200	27	32,400



E-mail comments to [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 15, 2008.

**Alexandra Huttinger,**

*Director, Division of Policy Review and Coordination.*

[FR Doc. E8–16775 Filed 7–21–08; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA)

publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, e-mail [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

#### Proposed Project: National Health Service Corps Recruitment and Retention Assistance Application (OMB No. 0915–0230)—Extension

The National Health Service Corps (NHSC) of the Bureau of Clinician Recruitment and Service (BCRS), HRSA, is committed to improving the health of the Nation's underserved by uniting communities in need with caring health

professionals and by supporting community's efforts to build better systems of care.

The Application for NHSC Recruitment and Retention Assistance, submitted by sites, requests information on the practice site, sponsoring agency, recruitment contact, staffing levels, service users, charges for services, employment policies, and fiscal management capabilities. Assistance in completing the application may be obtained through the appropriate State Primary Care Offices, State Primary Care Associations and the NHSC. The information on the application is used for determining the eligibility of sites and to verify the need for NHSC providers. Sites must apply once every three years.

The estimated burden is as follows:

Type of report	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
NHSC Multi-year Site Application .....	2900	1	2900	0.5	1450

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) or by fax to 202–395–6974. Please direct all correspondence to the “attention of the desk officer for HRSA.”

Dated: July 16, 2008.

**Alexandra Huttinger,**

*Director, Division of Policy Review and Coordination.*

[FR Doc. E8–16776 Filed 7–21–08; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA)

publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, e-mail [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

#### Proposed Project: Free Clinic FTCA Deeming Application (OMB No. 0915–0293) Revision

Congress legislated FTCA medical malpractice protection for free clinic volunteer health professionals through Section 194 of the Health Insurance Portability and Accountability Act (HIPAA) amending Section 224 of the Public Health Service Act. Individuals eligible to participate in this program are health care practitioners volunteering at free clinics who meet

specific eligibility requirements. If an individual meets all the requirements of this program, they can be “deemed” to be a Federal employee. This deemed status is specifically to provide immunity from medical malpractice lawsuits as a result of the performance of medical, dental, or related activities within the scope of the volunteer's work at the free clinic.

The sponsoring free clinic entity must submit an application to the Health Resources and Services Administration (HRSA). This application will require information about the sponsoring free clinic's credentialing system, risk management practices, and quality assurance system in order to ensure the Government is not exposed to undue liability resulting from the medical malpractice coverage of non-qualified health care professionals as well as the number of annual FTCA patient visits. Attached to the application will be a listing of specific health care providers for whom the sponsoring free clinic is requesting deemed status.

The estimated annual burden is as follows:



Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Free Clinic FTCA Application .....	150	1	150	16	2,400
Total .....	150	.....	150	.....	2,400

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) or by fax to 202-395-6974. Please direct all correspondence to the "attention of the desk officer for HRSA."

Dated: July 16, 2008.

**Alexandra Huttinger,**

*Director, Division of Policy Review and Coordination.*

[FR Doc. E8-16779 Filed 7-21-08; 8:45 am]

**BILLING CODE 4165-15-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on

proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104-13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or call the HRSA Reports Clearance Officer on (301) 443-1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of

automated collection techniques or other forms of information technology.

#### **Proposed Project: Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program Administrative Requirements (Regulations and Policy) (OMB No. 0915-0047)—Extension**

The regulations for the Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program contain a number of reporting and recordkeeping requirements for schools and loan applicants. The requirements are essential for assuring that borrowers are aware of rights and responsibilities that schools know the history and status of each loan account which schools pursue aggressive collection efforts to reduce default rates, and that they maintain adequate records for audit and assessment purposes. Schools are free to use improved information technology to manage the information required by the regulations.

The estimated total annual burden is 34,558 hours. The burden estimates are as follows:

#### RECORDKEEPING REQUIREMENTS

Regulatory/section requirements	Number of record-keepers	Hours per year	Total burden hours
<b>HPSL Program:</b>			
57.206(b)(2), Documentation of Cost of Attendance .....	435	1.17	509
57.208(a), Promissory Note .....	435	1.25	544
57.210(b)(1)(i), Documentation of Entrance Interview .....	435	1.25	544
57.210(b)(1)(ii), Documentation of Exit Interview .....	*477	0.33	157
57.215(a) & (d), Program Records .....	*477	10	4,770
57.215(b), Student Records .....	*477	10	4,770
57.215(c), Repayment Records .....	*477	18.75	8,944
<b>HPSL Subtotal .....</b>	<b>477</b>	<b>.....</b>	<b>20,238</b>
<b>NSL Program:</b>			
57.306(b)(2)(ii), Documentation of Cost of Attendance .....	304	0.3	91
57.308(a), Promissory Note .....	304	0.5	152
57.310(b)(1)(i), Documentation of Entrance Interview .....	304	0.5	152
57.310(b)(1)(ii), Documentation of Exit Interview .....	*486	0.17	83
57.315(a)(1) & (a)(4), Program Records .....	*486	5	2,430
57.315(a)(2), Student Records .....	*486	1	486
57.315(a)(3), Repayment Records .....	*486	2.51	1,220
<b>NSL Subtotal .....</b>	<b>486</b>	<b>.....</b>	<b>4,614</b>

\* Includes active and closing schools.

HPSL data include active and closing Loans for Disadvantaged Students (LDS) program schools.

## REPORTING REQUIREMENTS

Regulatory/section requirements	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hour burden
<b>HPSL Program:</b>					
57.206(a)(2), Student Financial Aid Transcript .....	4,600	1	4,600	.25	1,150
57.208(c), Loan Information Disclosure .....	435	68.73	29,898	.0833	2,490
57.210(b)(1)(i), Entrance Interview .....	435	68.73	29,898	0.167	4,993
57.210(b)(1)(ii), Exit Interview .....	*477	12	5,724	0.5	2,862
57.210(b)(1)(iii), Notification of Repayment .....	*477	30.83	14,706	0.167	2,456
57.210(b)(1)(iv), Notification During Deferment .....	*477	24.32	11,601	0.0833	966
57.210(b)(1)(vi), Notification of Delinquent Accounts ...	*477	10.28	4,904	0.167	819
57.210(b)(1)(x), Credit Bureau Notification .....	*477	8.03	3,830	0.6	2,298
57.210(b)(4)(i), Write-off of Uncollectible Loans .....	20	1.00	20	3.0	60
57.211(a) Disability Cancellation .....	10	1	10	.75	8
57.215(a)(2), Administrative Hearings .....	0	0	0	0	0
57.215(a)(d), Administrative Hearings .....	0	0	0	0	0
<b>HPSL Subtotal .....</b>	<b>7,885</b>	<b>.....</b>	<b>105,190</b>	<b>.....</b>	<b>18,102</b>
<b>NSL Program:</b>					
57.306(a)(2), Student Financial Aid Transcript .....	4,100	1	4,100	0.25	1,025
57.310(b)(1)(i), Entrance Interview .....	304	23.51	7,147	0.167	1,193
57.310(b)(1)(ii), Exit Interview .....	*486	3.77	1,832	0.5	916
57.310(b)(1)(iii), Notification of Repayment .....	*486	6.18	3,003	0.167	501
57.310(b)(1)(iv), Notification During Deferment .....	*486	0.65	316	0.083	26
57.310(b)(1)(vi), Notification of Delinquent Accounts ...	*486	4.61	2,240	0.167	374
57.310(b)(1)(x), Credit Bureau Notification .....	*486	8.3	4,003	0.6	2,420
57.310(b)(4)(i), Write-off of Uncollectible Loans .....	20	1.0	20	3.5	70
57.311(a), Disability Cancellation .....	10	1.0	10	0.8	8
57.315(a)(1)(ii), Administrative Hearings .....	0	0	0	0	0
57.316(a)(d), Administrative Hearings .....	0	0	0	0	0
<b>NSL Subtotal .....</b>	<b>6,864</b>	<b>.....</b>	<b>22,703</b>	<b>.....</b>	<b>6,535</b>

\* Includes active and closing schools.

E-mail comments to [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or mail to: HRSA Reports Clearance Officer, Room 10-33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 16, 2008.

**Alexandra Huttinger,**

*Director, Division of Policy Review and Coordination.*

[FR Doc. E8-16780 Filed 7-21-08; 8:45 am]

**BILLING CODE 4165-15-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review, Special Emphasis Panel, DNA Replication, Repair and Transcription.

*Date:* July 29, 2008.

*Time:* 2 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* David J. Remondini, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2210, MSC 7890, Bethesda, MD 20892, 301-435-1038, [remondid@csr.nih.gov](mailto:remondid@csr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review, Special Emphasis Panel, Urology Applications.

*Date:* August 4, 2008.

*Time:* 4 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Ryan G. Morris, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301-435-1501, [morrisr@csr.nih.gov](mailto:morrisr@csr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review, Special Emphasis Panel, Membrane Channels, Neuroimmunology, and Gene Expression.

*Date:* August 5-8, 2008.

*Time:* 2 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Joanne T. Fujii, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435-1178, [fujij@csr.nih.gov](mailto:fujij@csr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review, Special Emphasis Panel, Special Reviews in Bioengineering.

*Date:* August 8, 2008.

*Time:* 1 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* George W. Chacko, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7849, Bethesda, MD 20892, 301-435-1245, [chackoge@csr.nih.gov](mailto:chackoge@csr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 14, 2008.

**David Clary,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E8-16510 Filed 7-21-08; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Eye Institute, Special Emphasis Panel, NEI Institutional Training Grant Applications.

*Date:* July 30, 2008.

*Time:* 8 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

*Contact Person:* Anne E. Schaffner, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892-9300, (301) 451-2020, [aes@nei.nih.gov](mailto:aes@nei.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Eye Institute, Special Emphasis Panel, Clinical Grant Applications.

*Date:* August 4, 2008.

*Time:* 8:30 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

*Contact Person:* Houmam H Araj, PhD., Scientific Review Administrator, Division of Extramural Research, National Eye Institute, NIH 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892-9602, 301-451-2020, [ha50c@nih.gov](mailto:ha50c@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 14, 2008.

**David Clary,**

*Acting Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E8-16511 Filed 7-21-08; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

#### Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

*Comments are invited on:* (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

#### Proposed Project: Access to Recovery (ATR) Program Cross-Site Evaluation—New

SAMHSA's Center for Substance Abuse Treatment (CSAT) is conducting a cross-site evaluation of the Access to Recovery (ATR) program. CSAT's ATR program is a competitive, discretionary grant awarded to 18 States, the District of Columbia, and five Tribal Organizations to develop and operate a voucher-based substance abuse treatment financing system. The primary focus of the ATR program is to improve access by utilizing treatment payment vouchers, to expand independent client choice of treatment providers, to expand access to both clinical treatment and recovery support services (RSS), and to increase substance abuse treatment capacity by increasing the array of faith-based and community organizations through which clinical treatment and RSS can be offered. The purpose of the cross-site evaluation is to examine how grantees implement the ATR program and the program's impact on existing treatment systems and client outcomes and to inform future policy on the development and implementation of substance abuse treatment voucher systems.

Two surveys will be administered as part of this evaluation. One survey will be administered to a sample of clients participating in the ATR program and a second survey will be administered to service organizations participating in a grantee's ATR program. The client survey will be administered following the 6-month post-intake Government Performance and Results Act (GPRA) follow-up (OMB No. 0930-0208), using the same data collection methods as the GPRA data collection to reduce client burden. GPRA data collection methods vary by ATR grantee; typically, grantees collect GPRA data in-person, but in special cases they may use a telephone interview. The ATR client survey includes questions on client choice, ease of obtaining services through an ATR program, and client satisfaction. The provider survey will be administered through a Web survey instrument and will target a key informant in the organization to complete the survey. Providers unable to access or complete the Web survey will be provided with a paper version of the survey. The provider survey includes questions on organizational characteristics, satisfaction with the ATR program, and experience participating in the ATR program.

## TOTAL BURDEN HOURS FOR THE CROSS-SITE CLIENT AND PROVIDER SURVEY

Instrument/activity	Number of respondents	Number of responses per respondent	Average burden per response	Total burden hours per collection
Client Survey .....	7,329	1	0.15	1,100
Provider Survey (80% response rate) .....	4,083	1	0.50	2,042
Total .....	11,412	.....	.....	3,142

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7-1045, 1 Choke Cherry Road, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 16, 2008.

**Elaine Parry,**

*Acting Director, Office of Program Services.*

[FR Doc. E8-16726 Filed 7-21-08; 8:45 am]

BILLING CODE 4162-20-P

## DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2008-0074]

### The Critical Infrastructure Partnership Advisory Council

**AGENCY:** National Protection and Programs Directorate, DHS.

**ACTION:** Notice of Critical Infrastructure Partnership Advisory Council (CIPAC) Meeting.

**SUMMARY:** The Critical Infrastructure Partnership Advisory Council will meet on July 30, 2008 in Washington, DC. The meeting will be open to the public.

**DATES:** The Critical Infrastructure Partnership Advisory Council will meet Wednesday, July 30, 2008 from 8:20 a.m. to 4 p.m. Please note that the meeting may adjourn early if the committee has completed its business. For additional information, please consult the CIPAC Web site, <http://www.dhs.gov/cipac>, or contact the CIPAC Secretariat by phone at 703-235-3999 or by e-mail at [cipac@dhs.gov](mailto:cipac@dhs.gov).

**ADDRESSES:** The meeting will be held in Salons III and IV of the Grand Ballroom of the J.W. Marriott, 1331 Pennsylvania Avenue, Washington, DC 20004. While we will be unable to accommodate oral comments from the public, written comments may be sent to Nancy Wong, Department of Homeland Security, National Protection and Programs Directorate, Washington, DC 20528. Comments must be identified by DHS-2008-0074 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [cipac@dhs.gov](mailto:cipac@dhs.gov). Include the docket number in the subject line of the message.

- *Fax:* 703-235-3055.

- *Mail:* Nancy Wong, Department of Homeland Security, National Protection and Programs Directorate, Washington, DC 20528.

*Instructions:* All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received by the Critical Infrastructure Partnership Advisory Council, go to <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Nancy Wong, CIPAC Designated Federal Officer, Department of Homeland Security, Washington, DC 20528; telephone 703-235-3999.

**SUPPLEMENTARY INFORMATION:** The Critical Infrastructure Partnership Advisory Council represents a partnership between government and critical infrastructure/key resource (CIKR) owners and operators and provides a forum in which they can engage in a broad spectrum of activities to support and coordinate critical infrastructure protection.

The Critical Infrastructure Partnership Advisory Council will meet to discuss issues relevant to the protection of critical infrastructure. The July 30, 2008 meeting will include panel discussions between participating CIKR Sectors regarding the following topics:

1. Asset-Based Infrastructure Protection.
2. Systems-Based Infrastructure Protection.
3. Cross-Sector Dependencies and Interdependencies.
4. Regional Implementation of the National Infrastructure Protection Plan.

### Procedural

While this meeting is open to the public, participation in the Critical Infrastructure Partnership Advisory Council deliberations is limited to committee members, Department of Homeland Security officials, and persons invited to attend the meeting for special presentations.

### Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the CIPAC Secretariat at 703-235-3999 as soon as possible.

Dated: July 14, 2008.

**Nancy Wong,**

*Designated Federal Officer for the CIPAC.*

[FR Doc. E8-16659 Filed 7-21-08; 8:45 am]

BILLING CODE 4410-10-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket No. USCG-2008-0566]

### Houston/Galveston Navigation Safety Advisory Committee

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of meetings.

**SUMMARY:** The Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) and its working groups will meet in Texas City, Texas, to discuss waterway improvements, aids to navigation, area projects impacting safety on the Houston Ship Channel, and various other navigation safety matters in the Galveston Bay area. All meetings will be open to the public.

**DATES:** The Committee will meet on Tuesday, September 16, 2008, from 9 a.m. to 12 noon. The Committee's working groups will meet on Thursday, September 4, 2008, from 9 a.m. to 12 noon. These meetings may close early if all business is finished before 12 noon. Written material and requests to make oral presentations to the Committee should reach the Coast Guard on or before September 9, 2008. Requests to

have a copy of your materials distributed to each member of the committee or working group should reach the Coast Guard on or before September 2, 2008.

**ADDRESSES:** The full Committee will meet at Marine Safety Unit Galveston, 2101 FM 2004, Texas City, Texas 77591, (409) 978-2700. The working group meeting will be held at Marine Safety Unit Galveston, 2101 FM 2004, Texas City, Texas 77591, (409) 978-2700. Send written material and requests to make oral presentations to LT Sean Hughes, Assistant to the Executive Secretary of HOGANSAC, 9640 Clinton Drive, Houston, Texas 77029. This notice is available in our online docket, USCG-2008-0566, at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Commander Hal R. Pitts, Executive Secretary of HOGANSAC, telephone (713) 671-5164, e-mail [hal.r.pitts@uscg.mil](mailto:hal.r.pitts@uscg.mil) or Lieutenant Sean Hughes, Assistant to the Executive Secretary of HOGANSAC, telephone (713) 678-9001, e-mail [sean.p.hughes@uscg.mil](mailto:sean.p.hughes@uscg.mil).

**SUPPLEMENTARY INFORMATION:** Notice of these meetings is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92-463).

*Agendas of the Meetings:*

*Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC).* The tentative agenda is as follows:

(1) Opening remarks by the Committee Sponsor (RADM Whitehead) or the Committee Sponsor's representative, Executive Director (CAPT Diehl) and Chairperson (Ms. Tava Foret).

(2) Approval of the May 22, 2008 minutes.

(3) Old Business:

(a) Navigation Operations (NAVOPS)/Maritime Incident Review subcommittee report;

(b) Dredging subcommittee report;

(c) Technology subcommittee report;

(d) Waterways Optimization subcommittee report;

(e) Harbor of Safe Refuge subcommittee report;

(f) HOGANSAC Outreach subcommittee report;

(g) Commercial Recovery Contingency subcommittee report; and

(h) Area Maritime Security Committee (AMSC) Liaison's report.

(4) New Business:

*Working Groups Meeting.* The tentative agenda for the working groups meeting is as follows:

(1) Presentation by each working group of its accomplishments and plans for the future;

(2) Review and discuss the work completed by each working group; and

(3) Put forth any action items for consideration at full committee meeting.

#### Procedural

Both meetings are open to the public. Please note that meetings may close early if all business is finished. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at the Committee's September 16 meeting, please notify the Coast Guard no later than September 9, 2008. Written material for distribution at a meeting should reach the Coast Guard no later than September 2, 2008. If you would like a copy of your material distributed to each member of the committee in advance of the meetings, please submit 19 copies to the Coast Guard no later than September 2, 2008.

#### Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Secretary or Assistant to the Executive Secretary as soon as possible.

Dated: June 24, 2008.

**J.H. Korn,**

*Captain U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.*

[FR Doc. E8-16769 Filed 7-21-08; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[CIS No. 2435-07; DHS Docket No. USCIS-2007-0061]**

**RIN 1615-ZA66**

### Domestic Violence Guidance Pamphlet for K Nonimmigrants

**AGENCY:** U.S. Citizenship and Immigration Services, DHS.

**ACTION:** Notice.

**SUMMARY:** U.S. Citizenship and Immigration Services is soliciting comments from the public on a pamphlet discussing the rights and resources available to individuals coming to the United States under the K nonimmigrant classification as the fiancé(e) or the spouse of a U.S. citizen. The pamphlet is required by the International Marriage Broker Regulation Act of 2005 and is intended

to help such aliens understand the immigration process and prevent domestic violence.

**DATES:** Written comments must be submitted on or before September 19, 2008.

**ADDRESSES:** You may submit comments, identified by DHS Docket No. USCIS-2007-0061, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529. To ensure proper handling, please reference DHS Docket No. USCIS-2007-0061 on your correspondence. This mailing address may be used for paper, disk, or CD-ROM submissions.

- *Hand Delivery/Courier:* Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529. Contact Telephone Number (202) 272-8377.

**FOR FURTHER INFORMATION CONTACT:**

Andrew Perry, Family and Victim Protection Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Suite 2304, Washington, DC 20529. Contact Telephone Number (202) 272-1470.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Citing the fact that K nonimmigrants may face a higher risk of domestic violence in relationships arranged by International Marriage Brokers (IMBs), Congress enacted the International Marriage Broker Regulation Act of 2005 (IMBRA), subtitle D, Public Law No. 109-162, 119 Stat. 3066-3077 (2006). A K nonimmigrant is an alien who:

(1) Is the fiancé(e) of a U.S. citizen (USC) who has petitioned for the alien to enter the United States solely to conclude a valid marriage with him or her (referred to as "K-1" nonimmigrants);

(2) Is married to a U.S.C. who has petitioned the alien for lawful permanent residence and is seeking to enter the United States to await approval of the petition and availability of an immigrant visa (referred to as "K-3" nonimmigrants); or

(3) Is the minor child of the alien accompanying or following to join the alien (referred to as "K-2" or "K-4")

nonimmigrants). Immigration and Nationality Act (INA) sec. 1101(a)(15)(K); 8 U.S.C. 214.1(a)(2).

Pursuant to the requirements established by IMBRA, the Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, must develop and distribute to K nonimmigrant visa applicants an information pamphlet explaining the legal rights and resources for immigrant victims of domestic violence. 8 U.S.C. 1375a(a)(1). The pamphlet must include information on the following eight topics:

(1) The K nonimmigrant visa application process and the marriage-based immigration process;

(2) The illegality of domestic violence, sexual assault, and child abuse in the United States and the dynamics of domestic violence;

(3) Domestic violence and sexual assault services in the United States, including the National Domestic Violence Hotline and the National Sexual Hotline;

(4) The legal rights of immigrant victims of abuse and other crimes in immigration, criminal justice, family law, and other matters, including access to protection orders;

(5) The obligations of parents to provide child support;

(6) Marriage fraud under United States immigration laws and the penalties for committing such fraud;

(7) A warning concerning the potential use of K nonimmigrant visas by U.S. citizens who have a history of committing domestic violence, sexual assault, child abuse, or other crimes and an explanation that such acts may not have resulted in a criminal record for such a citizen; and

(8) Notification of the requirement under IMBRA that international marriage brokers provide their foreign national clients with background information gathered on U.S. citizen clients from searches of Federal and state sex offender public registries and collected from U.S. citizen clients

regarding their marital history, and domestic violence or other violent criminal history. But that such information may not be complete or accurate because the U.S. citizen clients may not have a criminal record or may not have truthfully reported their marital or criminal record. 8 U.S.C. 1375a(a)(2).

The pamphlet must be translated by the Secretary of State into Russian, Spanish, Tagalog, Vietnamese, Chinese, Ukrainian, Thai, Korean, Polish, Japanese, French, Arabic, Portuguese, Hindi, and such other languages as the Secretary of State, in the Secretary's discretion, may specify. 8 U.S.C. 1375a(a)(4)(A). The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, must determine every 2 years at least 14 languages into which the information pamphlet is translated based on the languages spoken by the greatest concentrations of K nonimmigrant visa applicants. 8 U.S.C. 1375a(a)(4)(B).

The law includes specific requirements for distribution of the information pamphlet to aliens seeking K nonimmigrant status. The Secretary of State must mail the information pamphlet to the alien seeking K nonimmigrant status along with the instruction packet for K nonimmigrant visa applications. 8 U.S.C.

1375a(a)(5)(A)(i). In addition, consular officers must provide a copy of the information pamphlet to all applicants for a K nonimmigrant visa during their interview for the visa. 8 U.S.C. 1375a(b)(1)(B).

The law also requires that the pamphlet be distributed to each alien seeking to obtain lawful permanent resident status. For each alien applying for a family-based immigrant visa outside the United States or adjustment of status (on Form I-485, Application to register Permanent Residence or Adjust Status) within the United States, a copy of the information pamphlet must be

provided at such alien's consular or adjustment of status interview. 8 U.S.C. 1375a(b)(2). The information pamphlet must be made available at all consular offices abroad, posted on the Web sites of the Department of State, and Department of Homeland Security, and all consular posts processing K nonimmigrant visa applications, and made available to IMBs, government agencies, and nongovernmental advocacy organizations. 8 U.S.C. 1375a(a)(5)(B), (C) and (D).

## II. Solicitation of Comments on the Information Pamphlet

U.S. Citizenship and Immigration Services (USCIS) is developing the information pamphlet required by IMBRA and is inviting the public to submit comments on all aspects of the pamphlet before its issuance and distribution. Comments that will provide the most assistance to USCIS will reference a specific portion of the pamphlet, explain the reason for any recommended change, and include data, information, or authority that supports the recommended change.

*Instructions:* All submissions received must include the agency name and DHS Docket No. USCIS-2007-0061 for this Notice. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected at the Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529.

Dated: July 14, 2008.

**Jonathan Scharfen,**

*Acting Director, U.S. Citizenship and Immigration Services.*

**BILLING CODE 9111-97-P**

# *Legal Rights and Resources for Immigrant Victims of Domestic Violence*

## *Facts about immigrating to the United States as a Fiancé(e) (K-1 visa) or as a Spouse (K-3 visa) of a U.S. Citizen*

### **What is the purpose of this pamphlet?**

The purpose of this pamphlet is to caution that certain U.S. citizens with a history of committing domestic violence, sexual assault, child abuse or other crimes, but who may not have a criminal record for such acts, may use the K nonimmigrant visa process to help a foreign national fiancé(e) or spouse to immigrate to the United States.

Though the length of a courtship with your fiancé(e) is not necessarily indicative of your chances of being a victim of domestic violence, the more fully you know your fiancé(e), the more likely you are to know his or her character and temperament. Brief courtships conducted over long distances do not usually allow an immigrant the time to know his or her fiancé(e) as completely as one might if the courtship was conducted over a longer period of time and over shorter distances.

This pamphlet is intended to inform you of your legal rights, obligations and of the possibility that your

fiancé(e) or spouse may not have provided all of the information you might want to know about his or her character. In addition, this pamphlet explains the legal immigration process and penalties for marriage fraud under U.S. law.

To help you better understand the immigration process and legal rights and obligations you will have after your admission to the United States based upon your marriage or engagement to a U.S. citizen, USCIS has put together the following questions and answers.

### **What are the K-1 fiancé(e) visa and adjustment application requirements?**

As someone who will be entering the United States in K-1 nonimmigrant status (as the fiancé(e) of a U.S. citizen), you are required to either marry the U.S. citizen within ninety (90) days of entry into the United States or to depart the United States at the end of the ninety (90) day period. Following your marriage to the U.S. citizen fiancé(e) who petitioned for you, you must file an Application to Register Permanent Residence or Adjust Status (Form I-485). If your Form I-485 is approved, your status will be adjusted from a K-1 nonimmigrant to that of a conditional permanent resident. You will have that conditional status for two years.

Ninety (90) days before the two-year anniversary date of your conditional permanent residency, you and your U.S. citizen spouse will be required to jointly file a Petition to Remove Conditions on Residence (Form I-751). Failure to file this form timely will result in the termination of your status as a conditional permanent resident. Other requirements for this petition are included in the instructions to the Form I-751.

If you are unable to jointly file the Form I-751 with your U.S. citizen spouse, some waivers of this

requirement may be available. For instance, in certain situations, such as the death of your U.S. citizen spouse, divorce, or domestic violence, you may still be eligible to file a Form I-751 on your own, without the assistance of your U.S. citizen spouse.

In cases of domestic violence, you may also qualify for permanent resident status as the abused spouse of a U.S. citizen by filing a Petition for Amerasian, Widow(er) or Special Immigrant (Form I-360).

### **What are the adjustment of status requirements for the spouse of a U.S. citizen who enters as a K-3 nonimmigrant?**

As someone who will be entering the United States in K-3 nonimmigrant status (as the spouse of a U.S. citizen), you will be required to complete your immigrant process in the United States in lieu of waiting for issuance of an immigrant visa. You must file an Application to Register Permanent Residence or Adjust Status (Form I-485) to seek adjustment of your status to permanent resident. If your Form I-485 is approved and you are adjusting your status based on a marriage of less than 24 months in duration, your status will be adjusted from a K-3 nonimmigrant to that of a conditional permanent resident. You will have that conditional status for two years.

Ninety (90) days before the two-year anniversary date of your conditional permanent residency, you and your U.S. citizen spouse will be required to jointly file a Petition to Remove Conditions on Residence (Form I-751). Failure to file this form timely will result in the termination of your status as a conditional permanent resident. Other requirements for this petition are included in the instructions to the Form I-751.

If you are unable to jointly file the Form I-751 with your U.S. citizen spouse, some waivers of this requirement may be available. For instance, in certain situations, such as the death of your U.S. citizen spouse, divorce, or domestic violence, you may still be eligible to file a Form I-751 on your own, without the assistance of your U.S. citizen spouse.

In cases of domestic violence, you may also qualify for permanent resident status as the abused spouse of a U.S. citizen by filing a Petition for Amerasian, Widow(er) or Special Immigrant (Form I-360).

#### **What is domestic violence?**

The term "domestic violence" refers to crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the violence occurs, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. It includes, but is not limited to, acts of physical violence, forced sexual acts, child abuse, and mental or emotional cruelty.

Domestic violence occurs among all national, ethnic and social groups. While most recorded incidents of domestic violence involve men abusing women or children, men can also be victims of domestic violence.

Immigrants are particularly vulnerable to domestic violence because many do not speak English, are often separated from family and friends, and may not understand the laws of the United States. For these reasons, immigrants are often afraid to report acts of

domestic violence to the police or to seek other forms of assistance. Such fear causes many immigrants to remain in abusive relationships.

Domestic violence may range from "punishment" from the U.S. citizen spouse for any transgressions (either real or imagined) by the immigrant spouse to forms of intimidation, isolation and control exerted by the U.S. citizen spouse on the immigrant.

Intimidation and control can take the form of not allowing any access to the immigrant's own finances (or those allegedly shared by the couple), restricting access to everyday necessities (such as food or medical services) or threatening to take or deport the immigrant's child (either a child of the marriage to the U.S. citizen or a child from a prior relationship).

Isolation may include preventing attendance at worship services for the immigrant's chosen religion and monitoring or restricting the immigrant's communication with others (family, neighbors, or others in his or her national origin or ethnic group). The means of prevention are not always as direct as physically restraining the immigrant. Other more subtle forms of abuse can be employed, such as the use of degrading and insulting language, berating of the immigrant's culture, insulting the immigrant's appearance or intelligence in an effort to erode his or her self-esteem and sense of self-worth, thus making the immigrant completely dependant upon his or her U.S. citizen spouse.

#### **Who is entitled to protection from domestic violence?**

All people in the United States (regardless of race, color, creed, sex, age, national origin, citizenship status, or ethnic background) are guaranteed basic protections under the law. Domestic violence is illegal in the United States. All spouses of U.S.

citizens are entitled to protection from domestic violence.

#### **What are the legal rights for victims of domestic violence?**

Immigrant victims of domestic violence may seek the protection of law enforcement. They may also seek orders of protection, abuse prevention orders, or restraining orders against their U.S. citizen abusers.

Abusive U.S. citizens will often threaten their immigrant spouses with deportation in an attempt to prevent their immigrant spouses from calling the police or from otherwise seeking legal protection from the domestic violence. *Please note that seeking law enforcement protection from domestic violence cannot be the basis of termination of your immigration status. You will not be deported for being the victim of domestic violence.*

#### **What are the child support obligations of U.S. citizens?**

In the United States, parents are required to provide financial support for their children. In the event of separation, you may be entitled to child support from your child's other parent. You may wish to contact a lawyer or voluntary help agency for additional information on how to obtain this support.

#### **What are the penalties for marriage fraud?**

Immigrants cannot receive immigration benefits if they knowingly enter into a marriage for the purpose of evading immigration laws or solely for an immigration benefit. Conviction for marriage fraud can involve imprisonment for up to five (5) years and fines up to \$250,000 (U.S. currency). Immigrants who commit marriage fraud may be removed from the United States and may be permanently barred from future immigration benefits in the United States.



**Can I depend on an international marriage broker to provide criminal background information on my U.S. citizen fiancé(e) or spouse?**

The International Marriage Broker Regulation Act of 2005 (IMBRA) requires that international marriage brokers provide their foreign national clients with background information on their U.S. citizen clients. The information includes searches conducted through Federal and State sex offender public registries, as well as information provided by the U.S. citizen clients.

Even if there is a lack of adverse criminal information on a U.S. citizen, it is possible that the individual has perpetrated acts of domestic violence, but has no arrests or convictions for these acts. Lack of adverse information regarding the U.S. citizen may also be due to the U.S. citizen's failure to fully disclose his or her prior marital or criminal history.

**For more information please contact:**

National Domestic Violence Hotline

1-800-799-SAFE (7233)

1-800-787-3224 (TTY)

National Sexual Assault Hotline

1-800-656-HOPE (4673)

**USCIS General Information**

In the United States, telephone toll free to:

**1-800-870-3676** or

Visit our internet website at:

<http://www.uscis.gov>



**DEPARTMENT OF HOMELAND SECURITY****U.S. Customs and Border Protection****Accreditation and Approval of Camin Cargo Control, Inc., as a Commercial Gauger and Laboratory**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of accreditation and approval of Camin Cargo Control, Inc., as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Camin Cargo Control, Inc., 1301 Metropolitan Ave., Thorofare, NJ 08086, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. [http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/).

**DATES:** The accreditation and approval of Camin Cargo Control, Inc., as commercial gauger and laboratory became effective on May 22, 2008. The next triennial inspection date will be scheduled for May 2011.

**FOR FURTHER INFORMATION CONTACT:** Randall Breaux, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: July 15, 2008.

**Ira S. Reese,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. E8-16714 Filed 7-21-08; 8:45 am]

**BILLING CODE 9111-14-P**

**DEPARTMENT OF HOMELAND SECURITY****U.S. Customs and Border Protection****Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Intertek USA, Inc., 109-B Freedom Boulevard, Yorktown, VA 23692, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to [cbp.labhq@dhs.gov](mailto:cbp.labhq@dhs.gov). Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. [http://cbp.gov/xp/cgov/import/operations\\_support/labs\\_scientific\\_svcs/commercial\\_gaugers/](http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/).

**DATES:** The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on May 08, 2008. The next triennial inspection date will be scheduled for May 2011.

**FOR FURTHER INFORMATION CONTACT:** Randall Breaux, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: July 15, 2008.

**Ira S. Reese,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. E8-16716 Filed 7-21-08; 8:45 am]

**BILLING CODE 9111-14-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5187-N-45]

**Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Applications for Housing Assistance Payments and Special Claims Processing and Owner Certification With Tenant Eligibility and Rent Procedures**

**AGENCY:** Office of Program Systems Management.

**ACTION:** Notice of proposed information collection.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* August 5, 2008.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within fourteen (14) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number and should be sent to: HUD Desk Officer, Office of Management and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Lillian Deitzer, Paperwork Reduction Act Compliance Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail [Lillian.L.Deitzer@HUD.gov](mailto:Lillian.L.Deitzer@HUD.gov); telephone (202) 402-8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

**SUPPLEMENTARY INFORMATION:** This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a revised collection for submission of Applications for Housing Assistance Payments and Special Claims Processing, and Owner Certification with Tenant Eligibility and Rent Procedures.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### This Notice Also Lists the Following Information

*Title of Proposal:* Applications for Housing Assistance Payments and Special Claims Processing; and Owner Certification with Tenant Eligibility and Rent Procedures.

*Description of Information Collection:* This is a revised collection for submitting Applications for Housing Assistance Payments and determining Owner Certification of Compliance with Tenant Eligibility and Rent Procedures for Section 8, Rent Supplement, Rental Assistance Payment (RAP), Section 202 Project Assistance Contracts (PACs) and Section 811 and 202 Project Rental Assistance Contracts (PRACS) program units. Special Claims for damages, unpaid rent loss, and vacancy claims are available for the Section 8, Section 202 PACs, and Section 811 and Section 202 PRACS programs.

Each HUD program has an assistance payments contract. These contracts indicate that HUD will make monthly assistance payments to Project Owners/Management Agents on behalf of the eligible households who reside in the assisted units. Project Owners are required to sign a certification on the Housing Owner's Certifications and Application for Housing Assistance form which states: (1) Each tenant's eligibility and assistance payments was computed in accord with HUD's regulations administrative procedures and the Contract, and are payable under the Contract; (2) The units for which assistance is being billed are decent, safe, sanitary, and occupied or available for occupancy; (3) No amount included on the bill has been previously billed or paid; (4) All facts and data on which the

payment request is based are true and accurate; and (5) That no payments have been paid or will be paid from the tenant or any public or private source for units beyond that authorized by the assistance contract, or lease, unless permitted by HUD.

This revised information collection provides a standard for Project Owners/Management Agents to report Adjustments to Schedule of Tenant Assistance Payments Due, Miscellaneous Accounting Request for Schedule of Tenant Assistance Due and Approved Special Claims for Schedule of Tenant Assistance Payments Due utilizing data already available in their software. The revised information collection further provides for distinct and increased clarity in reporting Partial Certifications such as Gross Rent Changes, Unit Transfers, Terminations and Move Outs.

*OMB Control Number:* 2502-0182.

*Agency Form Numbers:* HUD-52670, HUD-52670-A Part 1, HUD-52670-A Part 2, HUD-52670-A Part 3, HUD-52670-A Part 4, HUD-52670-A Part 5, and HUD-52671-A/B/C/D.

*Members of Affected Public:* Not-for-profit institutions.

*OMB Control Number:* 2502-0204.

*Agency Form Numbers:* HUD-50059, HUD-50059-A, HUD-9887/9887-A, HUD-27061-H, HUD-90100, HUD-90101, HUD-90102, HUD-90103, HUD-90104, HUD-90105-a, HUD-90105-b, HUD-90105-c, HUD-90105-d, and HUD-90106.

*Members of Affected Public:* Not-for-profit institutions.

*Estimation of the total numbers of hours needed to prepare the information collection (2502-0182) including number of respondents, frequency of responses, and hours of response:* An estimation of the annual total number of hours needed to prepare the information collection is 301,951, number of respondents is 24,325, frequency response is 12 per annum, and the total hours per respondent is 6.65.

*Estimation of the total number of hours needed to prepare the information collection (2502-0204) including number of respondents, frequency of responses, and hours of response:* An estimation of the annual total number of hours needed to prepare the information collection is 1,920,431, number of respondents is 1,920,431, frequency

response is 1 per annum, and the total hours per respondent is 1.71.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 17, 2008.

**Lillian L. Deitzer,**

*Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.*

[FR Doc. E8-16754 Filed 7-21-08; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R9-IA-2008-N0178; 96300-1671-0000-P5]

#### Issuance of Permits

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of issuance of permits for endangered species.

**SUMMARY:** The following permits were issued.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358-2281.

**FOR FURTHER INFORMATION CONTACT:** Division of Management Authority, telephone 703/358-2104.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) The application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

### ENDANGERED SPECIES

Permit No.	Applicant	Receipt of application <b>Federal Register</b> notice	Permit issuance date
170354 .....	Iowa Primate Learning Sanctuary.	73 FR 18808; April 7, 2008 .....	June 5, 2008.

## ENDANGERED SPECIES—Continued

Permit No.	Applicant	Receipt of application <b>Federal Register</b> notice	Permit issuance date
069429 and 069443 .....	Steve Martin's Working Wildlife	73 FR 14266; March 17, 2008 .....	May 21, 2008.

Dated: June 27, 2008.

**Michael L. Carpenter,**

*Senior Permit Biologist, Branch of Permits,  
Division of Management Authority.*

[FR Doc. E8-16711 Filed 7-21-08; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R4-ES-2008-N00161; 40120-1112-0000-F2]

#### Receipt of an Application for an Incidental Take Permit for Commercial Construction in Charlotte County, FL

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We, the Fish and Wildlife Service (Service), announce the availability of an incidental take permit (ITP) and Habitat Conservation Plan (HCP). Charlotte County (applicant) requests an ITP pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The applicant anticipates taking about 0.46 acre of foraging and sheltering habitat occupied by the threatened Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) incidental to lot preparation for the construction of a library and supporting infrastructure in Charlotte County, Florida (Project). The applicant's Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the Project to the scrub-jay.

**DATES:** We must receive your written comments on the ITP application and HCP on or before August 21, 2008.

**ADDRESSES:** See the **SUPPLEMENTARY INFORMATION** section below for information on how to submit your comments on the ITP application and HCP. You may obtain a copy of the ITP application and HCP by writing to the South Florida Ecological Services Office, *Attn:* Permit number TE165374-0, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960-3559. In addition, we will make the ITP application and HCP available for public inspection by appointment during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Ms. Trish Adams, Fish and Wildlife Biologist, South Florida Ecological Services Office (see **ADDRESSES**); *telephone:* (772) 562-3909, ext. 232.

**SUPPLEMENTARY INFORMATION:** If you wish to comment on the ITP application and HCP, you may submit comments by any one of the following methods. Please reference permit number TE165374-0 in such comments.

1. Mail or hand-deliver comments to our South Florida Ecological Services Office address (see **ADDRESSES**).

2. E-mail comments to *trish\_adams@fws.gov*. If you do not receive a confirmation that we have received your e-mail message, contact us directly at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**.

Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Commercial construction for the West County Library HCP will take place at latitude 26.942 and longitude 82.271 in Englewood, Charlotte County, Florida. This lot is within scrub-jay occupied habitat.

The lot encompasses about 12.06 acres, and the footprint of the library, infrastructure, and landscaping preclude retention of scrub-jay habitat. In order to minimize take on site, the applicant proposes to mitigate for the loss of 0.46 acre of scrub-jay habitat by restoring and protecting in perpetuity 1.16 acres of occupied scrub-jay habitat adjacent to existing conservation lands.

We have determined that the applicant's proposal, including the proposed mitigation and minimization measures, will have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a "low-effect" project and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA) (40 CFR 1506.6), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6

Appendix 1). Low-effect HCPs are those involving (1) minor or negligible effects on federally listed or candidate species and their habitats and (2) minor or negligible effects on other environmental values or resources. Based on our review of public comments that we receive in response to this notice, we may revise this preliminary determination.

We will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 et seq.). If we determine that the application meets the requirements, we will issue the ITP for incidental take of the Florida scrub-jay. We will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in the final analysis to determine whether or not to issue the ITP.

**Authority:** We provide this notice pursuant to section 10 of the Endangered Species Act (16 U.S.C. 1531 et seq.) and NEPA regulations (40 CFR 1506.6).

Dated: June 25, 2008.

**Paul Souza,**

*Field Supervisor, South Florida Ecological Services Office.*

[FR Doc. E8-16727 Filed 7-21-08; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R9-IA-2008-N0179; 96300-1671-0000-P5]

#### Receipt of Applications for Permit

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications for permit.

**SUMMARY:** The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

**DATES:** Written data, comments or requests must be received by August 21, 2008.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358-2281.

**FOR FURTHER INFORMATION CONTACT:** Division of Management Authority, telephone 703/358-2104.

**SUPPLEMENTARY INFORMATION:**

**Endangered Species**

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

*Applicant:* Molecular Anthropology Laboratory, Arizona State University, Tempe, AZ, PRT-185767.

The applicant requests a permit to acquire from Coriell Cell Repositories, Camden, NJ, in interstate commerce thirteen DNA samples from gorillas (*Gorilla gorilla*) and one DNA sample from red-capped mangabey (*Cercocebus torquatus*) for the purpose of scientific research.

*Applicant:* Byron G. Sadler, Lake Jackson, TX, PRT-187324.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Hollis B. Higginbotham, McMurray, PA, PRT-185730.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

**Endangered Marine Mammals**

The public is invited to comment on the following application for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The application was

submitted to satisfy requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing endangered species (50 CFR Part 17) and marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

*Applicant:* ABR, Inc.-Environmental Research & Services, Fairbanks, AK, PRT-187053.

The applicant requests a permit to conduct on-shore, boat-based and aerial surveys of northern sea otters (*Enhydra lutris kenyoni*) at various locations in the coastal waters of Alaska for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Dated: June 27, 2008.

**Michael L. Carpenter,**

*Senior Permit Biologist, Branch of Permits, Division of Management Authority.*

[FR Doc. E8-16712 Filed 7-21-08; 8:45 am]

**BILLING CODE 4310-55-P**

**INTERNATIONAL TRADE COMMISSION**

[Investigation Nos. 701-TA-448 and 731-TA-1117 (Final)]

**Certain Off-the-Road Tires From China**

**AGENCY:** United States International Trade Commission.

**ACTION:** Revised schedule for the subject investigations.

**DATES:** *Effective Date:* July 17, 2008.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Haines (202-205-3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special

assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** Effective April 3, 2008, the Commission established a revised schedule for the conduct of the final phase of the subject investigations (73 FR 19249, April 9, 2008).

The Commission has decided to revise its schedule with respect to the date for its final release of information and the date for final party comments. The Commission will make its final release of information on August 7, 2008 and final party comments are due on August 11, 2008.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: July 17, 2008.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E8-16764 Filed 7-21-08; 8:45 am]

**BILLING CODE 7020-02-P**

**DEPARTMENT OF JUSTICE**

**Notice of Lodging of Consent Decree Under the Safe Drinking Water Act**

Notice is hereby given that on July 16, 2008, a proposed Consent Decree (the "Decree") in *United States v. City of Middletown, New York*, Civil Action No. 08 Civ. 6369 (SCR) (LMS) was lodged with the United States District Court for the Southern District of New York.

In a complaint, filed simultaneously with the Decree, the United States charged that the City of Middletown (the "City") violated the Safe Drinking Water Act, 42 U.S.C. 300f, *et seq.*, by violating the Interim Enhanced Surface Water Treatment Rule, found at 40 CFR part 141, subpart P; 40 CFR 141.170-141.175 ("IESWTR"), and specifically failing to comply with the February 28, 2006 deadline, set in an Administrative Order issued by EPA against the City on

March 31, 2004, to issue a notice to proceed in connection with the construction of a full scale water treatment plant to replace the existing, inadequate Monhagen Water Treatment Plant.

Pursuant to the Decree, the City shall construct a water treatment facility to filter the drinking water it draws from surface water sources. The Decree requires the City to complete construction of the facility by April 30, 2010, pursuant to a schedule of eight interim construction milestones.

The Decree further requires the City to implement a number of interim measures to protect the quality of its drinking water until the City has fully complied with the long term construction of the water treatment facility. For example, the Decree mandates ongoing monitoring of the water that the City obtains from surface water sources, as well as monthly reporting of the monitoring data to EPA, the State of New York and Orange County.

The City will pay a \$50,000 civil monetary penalty to the United States pursuant to the Decree. The City must also carry out an environmental project to conserve and improve the water quality in and around the City. Specifically, the City will implement an environmental project to collect the backwash water from the proposed water treatment plant for recycling to the head of the water treatment plant. The implementation of recycling will prevent the backwash from being discharged into the same surface water from which the City obtains its drinking water. The recycling project will also provide an alternative to discharging the filter backwash water into the City's sanitary sewer system as under the current system, with the anticipated result that approximately 62 million gallons of water per year will be conserved. The value of this supplemental environmental project is estimated at \$490,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. City of Middletown, New York*, D.J. Ref. 90-5-1-1-09111.

The Decree may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York,

New York 10007, and at U.S. EPA Region 2, Office of Regional Counsel, 290 Broadway, New York, New York 10007-1866. During the public comment period, the Decree may also be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$4.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen Katz,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. E8-16736 Filed 7-21-08; 8:45 am]

**BILLING CODE 4410-15-P**

## DEPARTMENT OF JUSTICE

### National Institute of Corrections

#### **Solicitation for a Cooperative Agreement: To Develop a Series of Papers on Parole**

**AGENCY:** National Institute of Corrections, Department of Justice.

**ACTION:** Solicitation for a Cooperative Agreement.

**SUMMARY:** The National Institute of Corrections (NIC) is soliciting proposals from organizations, groups or individuals who would like to enter into a cooperative agreement with NIC to develop a series of five papers related to parole with a primary audience of parole board members, parole staff, governors, appointing authorities, and related criminal justice agencies. The five papers will be developed over an eighteen month time. The initial paper will address core competencies for parole board members and executive parole staff in paroling authorities. Additional topics for this series will be determined by NIC and the vendor.

**Project Goal:** The overall goal of the initial paper is the development of a document on core competencies for parole board members and executive staff. This document will address the following:

Describe the competencies needed to be a parole board member, parole chair and executive parole staff;

Clarify how the competencies relate to the role of parole with other stakeholders within the criminal justice systems;

Describe the organizational structures within the parole office that support the development and operation of competencies;

Examine how competencies promote the use of EBP in parole and revocation decision making;

Illustrate how governors, appointing authorities, and parole boards can use the competencies to make selection and hiring decisions.

The core competencies must conform to the principles presented in the documents "Comprehensive Framework for Paroling Authorities in an Era of Evidence-Based Practices", the "Correctional Leadership Competencies for the 21st Century for Executives and Senior-Level Leaders", and the "Correctional Leadership Competencies for the 21st Century for Manager and Supervisor Levels". These documents can be found at the following links:

<http://nicic.org/Downloads/PDF/Library/022906.pdf> (NIC Accession no. 022906), <http://www.nicic.org/pubs/2005/020474.pdf> (NIC Accession no. 020474) and <http://nicic.org/Downloads/PDF/Library/020475.pdf> (NIC Accession no. 020475).

**DATES:** Applications must be received by 4 p.m. EDT on August 20, 2008.

**ADDRESSES:** Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534.

Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, dial 7-3106, extension 0 for pickup.

Faxed applications will not be accepted. Electronic applications can be submitted via <http://www.grants.gov>.

**FOR FURTHER INFORMATION CONTACT:** All technical or programmatic questions concerning this announcement should be directed to Carla Smalls, Correctional Program Specialist, National Institute of Corrections. She can be reached by e-mail at [cjsmalls@bop.gov](mailto:cjsmalls@bop.gov) or to George M. Keiser, Chief, Community Corrections Division, National Institute of Corrections. He can be reached by e-mail at [gkeiser@bop.gov](mailto:gkeiser@bop.gov).

#### **SUPPLEMENTARY INFORMATION:**

**Background:** Parole can be defined as both a procedure by which a board

administratively releases inmates from prison as well as a provision for post-release supervision. For our discussion, parole is defined as the release of an offender from imprisonment to the community by a releasing authority (parole board or paroling authority) prior to the expiration of the offender's sentence, subject to conditions imposed by the releasing authority. Revocation is the action of a releasing authority removing a person from parole status in response to a violation of conditions.

As articulated by Nancy M. Campbell in the "Comprehensive Framework for Paroling Authorities in an Era of Evidence-Based Practices," one of the key functions of a paroling authority, board members and staff, is directing and facilitating the achievement of desired outcomes through people and resources. Getting the work done through others is a reality for most leaders and managers, and this is particularly true given the structure of parole. Paroling authorities can set the terms and conditions of parole, but they rely on others to implement them. Even in those cases, where the paroling authority and supervision agency are combined, parole board members rely on others to implement the terms and conditions that they set. Effective governors appoint paroling authorities who have both leadership and management skills.

As Jim Collins has said, "First get the right people on the bus." This is often difficult in the public sector but not impossible. To accomplish the goals of successful reentry and public protection requires an understanding of the pivotal role that parole can play in protecting the public by helping offenders transition and reenter society successfully. Most parole board members are appointed by elected officials and these officials need to understand what skills, knowledge, and attitudes (competencies) the "right people" (parole board members and staff) must possess to be effective in their work.

#### **National Institute of Corrections Experience**

*Progress to Date:* NIC has adopted three documents that can guide the development of core competencies for parole board members and staff. The first two documents, "Correctional Leadership Competencies for the 21st Century for Executives and Senior-Level Leaders" and the "Correctional Leadership Competencies for the 21st Century for Manager and Supervisor Levels" outline core competencies for criminal justice managers. The third document, "Comprehensive Framework

for Paroling Authorities in an Era of Evidence-Based Practices" describes the overarching visionary plan that paroling authorities will need for a future of well trained board members, using evidence based practices within agencies that have sufficient staff and other resources to effectively support the release and revocation of offenders. A review of these three documents provides a template for the development of a paper outlining the skills, knowledge, and attitudes that staff and board members should possess.

*Scope of Work:* Under this first phase of the cooperative agreement, the single major area of work to be completed is the development of a paper approximately 50 pages in length that presents the core competencies for parole board members and executive parole staff. It is anticipated that this paper will be prototypical of the remaining four papers.

*Description:* This initial document on parole will examine the skills, knowledge and abilities that parole board members and executive staff must possess to be effective in performing their work responsibilities within the criminal justice system.

*Work to be performed:* The provider shall consult with the Correctional Program Specialist (CPS) assigned to manage the cooperative agreement to ensure understanding of, and agreement on, the scope of work to be performed; submit a detailed work plan with time lines for accomplishing project activities to CPS for approval prior to any work being performed under this agreement; designate a point of contact, which will serve as the conduit of information and work experience between the CPS and the awardee; and review pertinent NIC documents to include training programs in the development of the core competencies.

*Deliverables:* The provider shall describe methodology used to produce papers; outline a management plan to include timelines for the development of the papers; produce five papers; and recommend distribution plan.

*Document Preparation:* For all awards in which a document will be a deliverable, the awardee must follow the Guidelines for Preparing and Submitting Manuscripts for Publication as found in the "General Guidelines for Cooperative Agreements" which will be included in the award package.

*Required Expertise:* The successful applicant will need skills, abilities and knowledge in the areas of knowledge of the criminal justice system; knowledge of the role of parole and its function within the criminal justice system; ability to conduct research and relate

these findings in a non-technical manner; skilled in conducting job task analyses that relate to job competencies; knowledge of evidence-based practices and offender transition, and how these areas relate to the parole process; and effective written and oral communication skills.

*Application Requirements:* Applications should be concisely written, typed double spaced and referenced to the project by the "NIC Application Number" and Title provided in this announcement. The package must include: OMB Standard Form 424, Application for Federal Assistance, a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period of fiscal year that the applicant operates under (e.g., July 1 through June 30), and an outline of projected costs. The following additional forms must also be included: OMB Standard Form 424A, Budget Information—Non-Construction Programs, OMB Standard Form 424B, Assurances—Non-Construction Programs (available at [www.grants.gov](http://www.grants.gov)) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at <http://www.nicic.gov/Downloads/PDF/certif-fm.pdf>).

Applications may be submitted in hard copy, or electronically via <http://www.grants.gov>. If submitted in hard copy, there needs to be an original and six copies of the full proposal (program and budget narratives, application forms and assurances). The original should have the applicant's signature in blue ink.

*Telephone Conference:* A telephone conference will be conducted for persons receiving this solicitation and having a serious intent to respond on July 30, 2008 at 2:00 pm EDT. In this conference, the NIC project manager will respond to questions regarding the solicitation and expectation of work to be performed. Please notify Carla Smalls electronically ([cjssmalls@bop.gov](mailto:cjssmalls@bop.gov)) by 12 noon EDT on July 25, 2008, regarding your interest in participating in the conference. You will be provided with a call-in number and instructions. In addition, NIC project managers will post answers to questions received from potential applicants on its Web site for the six weeks in which the solicitation is open to the public.

Authority: Public Law 93-415.

*Funds Available:* NIC is seeking the applicant's best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. The final

budget and award amount will be negotiated between NIC and the successful applicant. Funds may only be used for the activities that are linked to the desired outcome of the project. Following award of the cooperative agreement, NIC will work with the awardee to refine the identification of additional topics, plus the review and final acceptance of each deliverable. A specific funding amount is not disclosed. Both the cost and the development strategy are to be completed. Selection will be based on a determination of the best value for the government to achieve the goals of the award.

This project will be a collaborative venture with the NIC Community Corrections Division.

**Eligibility of Applicants:** An eligible applicant is any public or private agency, educational institution, organization, individual or team with expertise in the described areas.

**Review Considerations:** Applications received under this announcement will be subjected to a 3-to-5 person NIC Peer Review Process.

**Number of Awards:** One.

**NIC Application Number:** 08C79.

This number should appear as a reference line in the cover letter, in box 4a of Standard Form 424, and outside of the envelope in which the application is sent.

**Catalog of Federal Domestic Assistance Number:** 16.601.

**Executive Order 12372:** This project is not subject to the provisions of Executive Order 12372.

**Thomas J. Beauclair,**

*Deputy Director, National Institute of Corrections.*

[FR Doc. E8-16684 Filed 7-21-08; 8:45 am]

**BILLING CODE 4410-36-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Proposed Information Collection Request for the Extension of the Individual Training Account Experiment; Extension With Changes of Approved Collection; Comment Request

**AGENCY:** Employment and Training Administration, Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the

general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments for a proposed extension with revisions to an approved information collection (OMB 1205-0441, expires November 30, 2009) to evaluate long-term impacts of participants in the Individual Training Account Experiment.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice or by accessing: <http://www.doleta.gov/OMBControlNumber.cfm>.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before September 22, 2008.

**ADDRESSES:** Submit written comments to Janet Javar, Room N-5641, Employment and Training Administration, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone number: 202-693-3677 (this is not a toll-free number). Fax: 202-693-2766. E-mail: [javar.janet@dol.gov](mailto:javar.janet@dol.gov).

**SUPPLEMENTARY INFORMATION:** The Workforce Investment Act (WIA) of 1998 brought about substantial changes in the way training and other employment services are provided. WIA required workforce investment areas to establish Individual Training Accounts (ITAs), which provide vouchers or other related funding methods that customers can use to pay for training. ITAs are intended to empower customers to choose the training services they need and raise the accountability of states, local areas, and service providers for meeting these needs.

The ITA Experiment was conducted between June 1999 and September 2006. It was designed to test different approaches for managing customer choice in the administration of ITAs. States and local offices have a great deal of flexibility in deciding how much guidance to provide to customers in choosing WIA-funded training. The experiment tested three approaches that differed widely in both the resources made available to customers and the involvement of local counselors in

guiding customer choice. The three approaches included a highly structured approach (in which customers were steered to the highest-return training options), a moderately guided approach, and a true voucher approach (in which customers were offered a lump sum and allowed to choose any state-approved training). The three approaches were tested through an experiment that randomly assigned new customers to one of the three ITA approaches. The advantages of randomly assigning customers are increased precision and accuracy in the impact estimates. ETA selected six grantees through a competitive process to participate in the evaluation. The experiment was conducted in Chicago, Illinois; Charlotte, North Carolina; Atlanta, Georgia; Phoenix, Arizona; Bridgeport, Connecticut; and Jacksonville, Florida. Intake began in 2001.

Findings from the initial evaluation of the ITA Experiment suggested that a longer-term follow-up was necessary in order to reach more definitive conclusions regarding the impacts and cost-effectiveness of the ITA approaches. For most ITA study participants, the initial data collection permitted examination of employment outcomes for 18 months following random assignment. At that time, a substantial number of ITA participants were still in training, so that the ultimate effects of the ITA approaches had not yet been completely realized. This extension of the evaluation examines the longer-term outcomes of ITA study participants, with a second follow-up survey administered between four and seven years after random assignment and with longer-term employment and earnings data, including updated unemployment insurance (UI) wage records.

This request for a second participant follow-up survey includes only minor modifications to the first follow-up survey (OMB 1205-0441). It collects the same critical information that can only be collected using survey data on the employment, training, and earnings experiences of the ITA study participants. The second follow-up survey and additional UI data collection are needed to examine a more extensive employment history for each ITA study participant and update the experimental estimates of net impacts and return-on-investment analyses for the three ITA approaches.

To determine the relative long-term impacts of different ITA approaches on training experiences and on labor market outcomes, updated state-administrative data and second follow-up survey data will be used. These data



will make it possible to compare the outcomes of the three ITA approaches and evaluate their cost-effectiveness at three to five years after random assignment. These comparisons will be based on the experiences and outcomes of ITA customers, such as participation in education and training, employment and earnings, and participation in government support programs. These comparisons will yield estimates of the relative impacts of different ITA approaches on key outcomes in the long-term.

To compare the three ITA approaches, administrative and survey data to compute summary statistics, such as means, separately for each ITA approach will be used. For example, the percentage of ITA customers served by each approach that received training-related services will be computed and compared to how much training they received. This percentage will be compared across approaches to determine whether the different approaches vary in the amount and type of training that customers completed.

The evaluation findings can provide local workforce investment boards with guidance on possible modifications to their ITA programs. The goal of the experiment is to determine the relative long-term impacts and cost-effectiveness of different approaches to administering ITAs. The updated data collected from states and the second participant follow-

up survey will provide critical information to make those assessments. The planned data collection efforts are therefore essential to evaluating the different ITA approaches tested in the experiment.

## II. Review Focus

Data will be collected from study participants only once. The survey will provide the only source of long-term data for ITA customers at the six grantees on the following outcomes:

- Participation in education and training programs;
- Job search behavior after random assignment;
- Characteristics of post-training jobs; and
- Participation in government programs, including UI.

Therefore, if this second follow-up survey were not conducted, the evaluation would be unable to assess the impacts of different ITA approaches on these outcomes in the long-term.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

## III. Current Actions

*Type of Review:* Extension of a currently approved collection with revisions.

*Agency:* Employment and Training Administration.

*Title:* Extension of the Evaluation of the Individual Training Account Experiment.

*OMB Number:* 1205-0441.

*Affected Public:* Individuals.

*Total Respondents:* 3,366.

*Frequency:* One time.

*Total Responses:* 3,366.

*Average Time per Response:* 30 minutes.

*Estimated Total Burden Hours:* 1,680 hours.

*Total Burden Cost:* \$24,192.

Cite/Reference	Total respondents	Frequency	Average time per response (minutes)	Burden (hours)
ITA Follow-up survey .....	3,366	One time .....	30	1,680
Totals .....	3,366	.....	.....	1,680

The total burden cost represents 30 minutes to complete the survey multiplied by the number of completers (3,366 or 70 percent of the 4,800 sample targeted for the survey) and by an estimated average hourly wage of \$14.40 per hour.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Signed in Washington, DC, this 16th day of July 2008.

**Thomas M. Dowd,**

*Administrator, Office of Policy Development and Research Employment and Training Administration.*

[FR Doc. E8-16666 Filed 7-21-08; 8:45 am]

BILLING CODE 4510-FN-P

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions for Modification

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice of petitions for modification of existing mandatory safety standards.

**SUMMARY:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

**DATES:** All comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before August 21, 2008.

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic mail:* Standards-Petitions@dol.gov.

2. *Facsimile:* 1-202-693-9441.

3. *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, *Attention:* Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, *Attention:* Patricia W. Silvey, Director,

Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

#### FOR FURTHER INFORMATION CONTACT:

Lawrence D. Reynolds, Acting Deputy Director, Office of Standards, Regulations, and Variances at 202-693-9449 (Voice), [reynolds.lawrence@dol.gov](mailto:reynolds.lawrence@dol.gov) (E-mail), or 202-693-9441 (Telefax), or contact Barbara Barron at 202-693-9447 (Voice), [barron.barbara@dol.gov](mailto:barron.barbara@dol.gov) (E-mail), or 202-693-9441 (Telefax). [These are not toll-free numbers.]

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

##### II. Petitions for Modification

*Docket Number:* M-2008-033-C.

*Petitioner:* Penn View Mining, Inc., 2340 Smith Road, Shelocta, Pennsylvania 15774.

*Mine:* TJS #6 Mine, MSHA I.D. No. 36-09464, located in Armstrong County, Pennsylvania.

*Regulation Affected:* 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35 (Portable trailing cables and cords).

*Modification Request:* The petitioner requests a modification of the existing standard to permit the cable length to be increased for cable supplying power to two Fletcher Roof Ranger II Roof Bolters. The voltage for these machines

is 480-volts, three-phase alternating current. *The petitioner states that:* (1) The maximum length of the 480-volt trailing cables be increased to 1200 feet when No. 2 American Wire Gauge (AWG) cable is being used, and the maximum length of the 480-volt trailing cable be 950 feet when No. 4 AWG cable is being used; (2) the trailing cables for the 480-volt Fletcher Roof Ranger II Roof Bolters will not be smaller than No. 4 AWG cable; (3) all circuit breakers used to protect the No. 2 AWG trailing cable or the No. 4 AWG trailing cable exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 500 amperes; (4) the trip setting for these circuit breakers will be sealed to ensure that the settings on these breakers cannot be changed, and each one will have permanent legible labels identifying the circuit breakers as being suitable for protecting the cables as listed above; (5) replacement circuit breakers and/or instantaneous trip units used to protect the No. 2 AWG trailing cable or the No. 4 AWG trailing cable will be calibrated to trip at 500 amperes, and this setting will be sealed; (6) all components that provide short-circuit protection will have a sufficient interruption rating in accordance with the maximum calculated fault currents available; (7) during each production day the trailing cables and the circuit breakers will be examined in accordance with all 30 CFR provisions; (8) permanent labels to warn miners not to change or alter the settings of these devices will be installed and maintained on the load center identifying the location of each short-circuit protective device; and (9) if the affected trailing cables are damaged in any way during the shift, the cable will be de-energized and repairs will be made. Persons may review a complete description of petitioner's alternative method and procedures at the MSHA address listed in this notice. The petitioner states that the alternative method will not be implemented until all miners designated to operate the Roof Ranger II or any other person designated to examine the trailing cables or trip settings on the circuit breakers have received proper training. *The training for the miners will include the following elements:* (1) Training in the hazards of setting the short-circuit interrupting device(s) too high to adequately protect the trailing cables; (2) training on how to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained; (3) training in mining methods and operating procedures for protecting the trailing cables against damage; and (4)

training in the proper procedures for examining the trailing cables to ensure that the cables are in safe operating conditions by a visual inspection of the entire cable, observing the insulation, the integrity of the splices, and nicks and abrasions. The petitioner further states that within 60 days after the Proposed Decision and Order becomes final, the proposed revisions for its approved 30 CFR part 48 training plan will be submitted to the District Manager. These proposed revisions will specify task training for miners designated to examine the trailing cables for safe operating conditions, and verify that the short-circuit settings of the circuit interrupting device(s) that protect the affecting trailing cables do not exceed the specified setting(s). The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by such standard with no diminution of safety to the miners.

*Docket Number:* M-2008-034-C.

*Petitioner:* Rosebud Mining Company, 301 Market Street, Kittanning, Pennsylvania 16201.

*Mines:* Beaver Valley Mine, MSHA I.D. No. 36-08725, located in Beaver County, Pennsylvania; Clementine Mine, MSHA I.D. No. 36-08862 and Logansport Mine, MSHA I.D. No. 36-08841, located in Armstrong County, Pennsylvania; Little Toby Mine, MSHA I.D. No. 36-08847, located in Elk County, Pennsylvania; Lowry Mine, MSHA I.D. No. 36-09287 and Toms Run Mine, MSHA I.D. No. 36-08525, located in Indiana County, Pennsylvania; Mine 78, MSHA I.D. No. 36-09371, located in Somerset County, Pennsylvania; Penfield Mine, MSHA I.D. No. 36-09355, located in Clearfield County, Pennsylvania; and Tusky Mine, MSHA I.D. No. 33-04509, located in Tuscarawas County, Ohio.

*Regulation Affected:* 30 CFR 75.1100-2(e)(2) (Quantity and location of firefighting equipment).

*Modification Request:* The petitioner requests a modification of the existing standard to permit an alternate method of compliance with the firefighting equipment requirement at temporary electrical installations. The petitioner proposes to supply two fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations in lieu of 240 pounds of rock dust. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by such standard with no diminution of safety to the miners.

*Docket Number:* M-2008-035-C.  
*Petitioner:* Jim Walter Resources, Inc.,  
P.O. Box 133, Brookwood, Alabama  
35444.

*Mine:* No. 4 Mine, MSHA I.D. No.  
01-01247 and No. 7 Mine, MSHA I.D.  
No. 01-01401, both located in  
Tuscaloosa County, Alabama.

*Regulation Affected:* 30 CFR 50.30  
(Preparation and submission of MSHA  
Form 7000-2—Quarterly Employment  
and Coal Production Report).

*Modification Request:* The petitioner  
requests a modification of the existing  
standard to permit MSHA Form 7000-  
2 to be completed and submitted within  
60 days after the end of each calendar  
quarter. The petitioner asserts that the  
proposed alternative method will at all  
times guarantee no less than the same  
measure of protection afforded the  
miners by the standard.

*Docket Number:* M-2008-036-C.  
*Petitioner:* AMFIRE Mining Company,  
LLC, One Energy Place, Latrobe,  
Pennsylvania 15650.

*Mine:* Gillhouser Run Mine, MSHA  
I.D. No. 36-09033, located in Indiana  
County, Pennsylvania.

*Regulation Affected:* 30 CFR 75.500(d)  
(Permissible electric equipment).

*Modification Request:* The petitioner  
requests a modification of the existing  
standard to permit an alternative  
method to use low-voltage or battery-  
powered non-permissible electronic  
surveying equipment in or inby the last  
open crosscut, or within 150 feet of  
pillar workings under controlled  
conditions for surveying and mapping  
of the working section, and for final  
surveying in the return areas of the  
mine. The petitioner seeks modification  
of 30 CFR 75.500(d) and any other  
applicable standards as they pertain to  
restricting the use of non-permissible or  
non-intrinsically safe electrical testing  
and diagnostic equipment used by  
maintenance personnel for trouble  
shooting and repair of mining  
equipment commonly used and  
accepted which may include, but is not  
limited to: Low-voltage or battery-  
powered non-permissible electronic  
surveying equipment, portable battery  
operated hand drills, portable battery  
operated mine transits, electronic  
distance meters, and other equipment  
that may have to be used including but  
not limited to tools such as laptop  
computers. *The petitioner states that:* (1)  
Application of the existing standard will  
result in a diminution of safety to the  
miners; (2) mining equipment by its  
nature, size, complexity of mine plans,  
and relative closeness to other  
abandoned mines requires that accurate  
and precise measurements be completed

in a prompt and efficient manner; (3) all  
non-permissible electronic surveying  
equipment used in or inby the last open  
crosscut shall be examined prior to use  
to ensure that the equipment is being  
maintained in safe operating conditions;  
(4) the equipment will be examined at  
intervals not to exceed 7 days by a  
qualified person as defined in 30 CFR  
75.153; (5) examination results will be  
recorded in the weekly examination of  
electrical equipment book; (6) a  
qualified person as defined in 30 CFR  
75.151 will continuously monitor for  
methane immediately before and during  
the use of non-permissible electronic  
test and diagnostic equipment in or inby  
the last open crosscut, in return areas,  
or within 150 feet of pillar workings; (7)  
if 1.0 percent or more of methane is  
detected, non-permissible electronic  
surveying equipment will be de-  
energized immediately and will be  
withdrawn outby the last open crosscut  
to intake air, or to a minimum of 150  
feet outby the pillar workings; (8) all  
hand-held methane detectors will be  
MSHA-approved and maintained in  
permissible and proper operating  
condition as defined under 30 CFR  
75.320; (9) qualified personnel engaged  
in the use of electronic surveying  
equipment will be properly trained to  
recognize the hazards and limitations  
associated with the use of such  
equipment; and (10) all electronic  
surveying equipment will be used in  
accordance with the manufacturer's  
recommended safe use procedures.  
Persons may review a complete  
description of petitioner's alternative  
method and procedures at the MSHA  
address listed in this notice. The  
petitioner asserts that the proposed  
alternative method will at all times  
guarantee no less than the same measure  
of protection afforded the miners by  
such standard.

*Docket Number:* M-2008-037-C.

*Petitioner:* AMFIRE Mining Company,  
LLC, One Energy Place, Latrobe,  
Pennsylvania 15650.

*Mine:* Madison Mine, MSHA I.D. No.  
36-09127, located in Cambria County,  
Pennsylvania.

*Regulation Affected:* 30 CFR 75.500(d)  
(Permissible electric equipment).

*Modification Request:* The petitioner  
requests a modification of the existing  
standard to permit an alternative  
method to use low-voltage or battery-  
powered non-permissible electronic  
surveying equipment in or inby the last  
open crosscut, or within 150 feet of  
pillar workings under controlled  
conditions for surveying and mapping  
of the working section, and for final  
surveying in the return areas of the

mine. The petitioner seeks modification  
of 30 CFR 75.500(d) and any other  
applicable standards as they pertain to  
restricting the use of non-permissible or  
non-intrinsically safe electrical testing  
and diagnostic equipment used by  
maintenance personnel for trouble  
shooting and repair of mining  
equipment commonly used and  
accepted which may include, but is not  
limited to: Low-voltage or battery-  
powered non-permissible electronic  
surveying equipment, portable battery  
operated hand drills, portable battery  
operated mine transits, electronic  
distance meters, and other equipment  
that may have to be used including but  
not limited to tools such as laptop  
computers. *The petitioner states that:* (1)  
Application of the existing standard will  
result in a diminution of safety to the  
miners; (2) mining equipment by its  
nature, size, complexity of mine plans,  
and relative closeness to other  
abandoned mines requires that accurate  
and precise measurements be completed  
in a prompt and efficient manner; (3) all  
non-permissible electronic surveying  
equipment used in or inby the last open  
crosscut shall be examined prior to use  
to ensure that the equipment is being  
maintained in safe operating conditions;  
(4) the equipment will be examined at  
intervals not to exceed 7 days by a  
qualified person as defined in 30 CFR  
75.153; (5) examination results will be  
recorded in the weekly examination of  
electrical equipment book; (6) a  
qualified person as defined in 30 CFR  
75.151 will continuously monitor for  
methane immediately before and during  
the use of non-permissible electronic  
test and diagnostic equipment in or inby  
the last open crosscut, in return areas,  
or within 150 feet of pillar workings; (7)  
if 1.0 percent or more of methane is  
detected, non-permissible electronic  
surveying equipment will be de-  
energized immediately and will be  
withdrawn outby the last open crosscut  
to intake air, or to a minimum of 150  
feet outby the pillar workings; (8) all  
hand-held methane detectors will be  
MSHA-approved and maintained in  
permissible and proper operating  
condition as defined under 30 CFR  
75.320; (9) qualified personnel engaged  
in the use of electronic surveying  
equipment will be properly trained to  
recognize the hazards and limitations  
associated with the use of such  
equipment; and (10) all electronic  
surveying equipment will be used in  
accordance with the manufacturer's  
recommended safe use procedures.  
Persons may review a complete  
description of petitioner's alternative  
method and procedures at the MSHA

address listed in this notice. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by such standard.

*Docket Number:* M-2008-038-C.

*Petitioner:* AMFIRE Mining Company, LLC, One Energy Place, Latrobe, Pennsylvania 15650.

*Mine:* Nolo Mine, MSHA I.D. No. 36-08850, located in Indiana County, Pennsylvania.

*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

*Modification Request:* The petitioner requests a modification of the existing standard to permit an alternative method to use low-voltage or battery-powered non-permissible electronic surveying equipment in or inby the last open crosscut, or within 150 feet of pillar workings under controlled conditions for surveying and mapping of the working section, and for final surveying in the return areas of the mine. The petitioner seeks modification of 30 CFR 75.500(d) and any other applicable standards as they pertain to restricting the use of non-permissible or non-intrinsically safe electrical testing and diagnostic equipment used by maintenance personnel for troubleshooting and repair of mining equipment commonly used and accepted which may include, but is not limited to: Low-voltage or battery-powered non-permissible electronic surveying equipment, portable battery operated hand drills, portable battery operated mine transits, electronic distance meters, and other equipment that may have to be used including but not limited to tools such as laptop computers. *The petitioner states that:* (1) Application of the existing standard will result in a diminution of safety to the miners; (2) mining equipment by its nature, size, complexity of mine plans, and relative closeness to other abandoned mines require that accurate and precise measurements be completed in a prompt and efficient manner; (3) all non-permissible electronic surveying equipment used in or inby the last open crosscut shall be examined prior to use to ensure that the equipment is being maintained in safe operating conditions; (4) the equipment will be examined at intervals not to exceed 7 days by a qualified person as defined in 30 CFR 75.153; (5) examination results will be recorded in the weekly examination of electrical equipment book; (6) a qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of non-permissible electronic

test and diagnostic equipment in or inby the last open crosscut, in return areas, or within 150 feet of pillar workings; (7) if 1.0 percent or more of methane is detected, non-permissible electronic surveying equipment will be de-energized immediately and will be withdrawn outby the last open crosscut to intake air, or to a minimum of 150 feet outby the pillar workings; (8) all hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined under 30 CFR 75.320; (9) qualified personnel engaged in the use of electronic surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of such equipment; and (10) all electronic surveying equipment will be used in accordance with the manufacturer's recommended safe use procedures. Persons may review a complete description of petitioner's alternative method and procedures at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by such standard.

**Lawrence D. Reynolds,**

*Acting Deputy Director, Office of Standards, Regulations, and Variances.*

[FR Doc. E8-16669 Filed 7-21-08; 8:45 am]

**BILLING CODE 4510-43-P**

## MILLENNIUM CHALLENGE CORPORATION

[MCC FR 08-07]

### Notice of Entering Into a Compact With the Government of Burkina Faso

**AGENCY:** Millennium Challenge Corporation.

**ACTION:** Notice.

**SUMMARY:** In accordance with Section 610(b)(2) of the Millennium Challenge Act of 2003 (Pub. L. 108-199, Division D), the Millennium Challenge Corporation (MCC) is publishing a summary and the complete text of the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Government of Burkina Faso. Representatives of the United States Government and the Government of Burkina Faso executed the Compact documents on July 14, 2008.

Dated: July 17, 2008.

**William G. Anderson Jr.,**

*Vice President & General Counsel, Millennium Challenge Corporation.*

### Summary of Millennium Challenge Compact With the Government of Burkina Faso

#### A. Introduction

Burkina Faso is a landlocked country in Africa's Sahel region, bordering Benin, Cote d'Ivoire, Ghana, Mali, Niger, and Togo, with a population of approximately 15.26 million people. It is one of the poorest countries in the world, ranking 176 out of 177 countries as surveyed by the United Nations Development Program's 2007 Human Development Index. In an effort to address constraints to investment, Burkina Faso has undertaken several broad macroeconomic reforms since the mid-1990s, including market-oriented reforms, decentralization of power from the central government to local governments, adoption of a new labor code, and business climate improvements. In light of these efforts, in 2007, the International Finance Corporation named Burkina Faso one of the top reformers in West Africa. In January 2008, Burkina Faso began a two-year term on the United Nations Security Council. Despite these reforms, recognitions, and moderate economic gains, Burkina Faso continues to face severe constraints to growth and poverty reduction.

#### B. Program Overview, Budget, and Impact

Constraints are particularly acute in rural areas. Agricultural activities involve 85 percent of the country's active population and contribute to approximately 36 percent of GDP and 88 percent of export earnings. Rural populations in Burkina Faso currently lack access to basic inputs needed to improve agricultural and livestock productivity, including secure land, skilled labor, adequate water resources, sufficient volumes of credit, and adequate access to markets. To address these constraints, the government of Burkina Faso ("GoBF") has proposed a US\$480,943,569, five-year Millennium Challenge Compact ("Compact") that will consist of four interdependent projects:

- Rural Land Governance Project—designed to increase investment in land and rural productivity through improved land tenure security and land management;
- Agriculture Development Project—designed to expand the productive use of land in order to increase the volume

and value of agricultural production in project zones;

- Roads Project—designed to enhance access to markets through investments in the road network; and

- BRIGHT 2 Schools Project—designed to increase primary school completion rates for girls (each of the four projects is referred to herein as a “Project”).

Table 1 below sets forth the Compact program (“Program”) budget at the Project level.

TABLE 1.—PROGRAM BUDGET BY PROJECT  
[US\$ millions]

Component	CIF*	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Rural Land Governance Project .....	1.10	7.21	13.00	15.60	14.08	8.94	59.93
Agriculture Development Project .....	4.77	17.91	40.95	44.03	25.28	8.97	141.91
Roads Project .....	0.34	3.05	32.97	93.23	58.60	5.94	194.13
Bright 2 Schools Project .....	3.00	25.83	.....	.....	.....	.....	28.83
Monitoring & Evaluation .....	0.45	1.72	1.21	1.46	1.36	1.68	7.88
Program Administration and Oversight ....	6.44	7.95	8.17	8.87	8.45	8.38	48.26
<b>Total MCC Funding .....</b>	<b>\$16.10</b>	<b>\$63.67</b>	<b>\$96.30</b>	<b>\$163.19</b>	<b>\$107.77</b>	<b>\$33.91</b>	<b>\$480.94</b>

\* Compact Implementation Funds (CIF) refer to funding available before the entry-into-force of the Compact.

Important synergies exist among the four Projects. The Agriculture Development Project will alleviate the constraint of poor water availability with investments in irrigation infrastructure and water management. This Project also will increase the availability of rural credit and provide technical assistance to farmers' groups and individual households, improving their ability to produce higher-value agricultural and livestock products. Complementary Rural Land Governance activities will secure land in the Agricultural Development Project areas and other areas, reducing economic losses due to land conflict or risk of conflict and encouraging productive investment in land. The Roads Project will rehabilitate rural and primary roads near the production zones, increasing opportunities for farmers to sell agricultural products and livestock, as well as to buy the necessary inputs. Finally, the BRIGHT 2 Schools Project will improve girls' literacy and numeracy skills, which will improve capacity for productive employment opportunities in the longer term.

#### 1. Rural Land Governance Project (\$59.93 million)

The Rural Land Governance Project will assist the GoBF to fulfill its commitment to achieve a new rural land tenure framework by addressing the three constraints to rural economic activity, as identified by the GoBF through a consultative process: (a) Difficult access to formal land use rights; (b) unclear land rights leading to endemic and sometimes violent conflict; and (c) poor use of land resources resulting in land degradation.

A new rural land law is expected to be adopted prior to entry into force of the Compact, and will be based on the

existing, stakeholder-driven 2007 rural land policy. The Project also will support the GoBF's implementation of the 2004 decentralization law that authorizes transfer of key aspects of land governance to municipal governments. The Project consists of the following three mutually reinforcing activities:

(a) Legal and Procedural Change and Communication to support the GoBF's effort to develop and implement improved rural land legislation and to develop, revise and implement other legal and procedural frameworks;

(b) Institutional Development and Capacity Building which, in conjunction with the previous activity, is expected to improve institutional capacity to deliver land services in rural areas; and

(c) Site-Specific Land Tenure Interventions to ensure that the previous two activities yield their intended benefits across municipalities and in targeted agricultural development zones.

Most of the Project's site specific interventions will be scalable through a phased approach, thus enabling the expected returns on an initial share of the investments to be tested before the Project is expanded. Phase one will target 17 municipalities with a complete package of technical assistance and infrastructure construction, and a set of up-front investments that are not municipality-specific. The decision to move forward with phase two will be subject to the Project's satisfactory performance on specific economic, legal and policy indicators. Phase two will include the balance of the Compact's term and target up to 30 additional municipalities for technical assistance and infrastructure, and expand

investments associated with other sub-activities.

#### 2. Agriculture Development Project (\$141.91 million)

The Agriculture Development Project is designed to address core constraints typical of rural Burkina Faso: (a) Poor water resource availability and management; (b) weak beneficiary capacity; (c) lack of access to pricing information, markets, and inputs; and (d) lack of access to credit. This Project has synergies with MCC's other investments in rural land governance and roads infrastructure. Improvements in the road network will reduce constraints that producers face in terms of isolation from markets and high transport costs, while investments in land tenure security will be an important factor in motivating producers to invest time and capital in their operations. The Project consists of the following three activities:

(a) Water Management and Irrigation to ensure adequate water availability, water delivery, flood control, and dam safety to support and protect investments in the Sourou Valley and to ensure better water resource management in the Comoé Basin;

(b) Diversified Agriculture to build on the delivery of water in the Project zones by supporting on-farm production and related activities throughout the agricultural value chain; and

(c) Access to Rural Finance to increase medium- and long-term credit in the four western regions of Sud-Ouest, Hauts Bassins, Cascades, and Boucle du Mouhoun.

#### 3. Roads Project (\$194.13 million)

Burkina Faso's Poverty Reduction Strategy Paper identifies infrastructure development as a critical priority for increased economic growth. For a

landlocked country, the road transport network is an important asset for economic development to facilitate trade and communications with regional and international markets and to improve local connectivity of farms to markets. Road network investments also improve access to social services in rural communities, such as those in western Burkina Faso, which currently are underserved due to an inadequate transport system.

The Project is designed to (a) improve access to agricultural markets by upgrading primary and rural road segments serving the Sourou Valley and the Comoé Basin; (b) reduce travel time to markets and vehicle operating costs; and (c) ensure sustainability of the road network by strengthening road maintenance. Benefits are expected to result primarily from increasing the year-round accessibility to markets of agriculturally productive regions that are typically cut off during the rainy season.

The Project consists of the following four activities:

(a) Development of Primary Roads to support the improvements of three primary road segments in western Burkina Faso currently projected to total 271 kilometers;

(b) Development of Rural Roads to support the improvement of 151 kilometers of road segments located in three rural areas in the Comoé Basin of southwestern Burkina Faso. These roads currently exist as rural tracks and improvements will include upgrading to a fully engineered rural road standard;

(c) Capacity Building and Technical Assistance to reinforce the effectiveness of existing government agencies and private sector institutions involved in road maintenance planning and implementation; and

(d) Incentive Matching Fund for Periodic Road Maintenance to set the GoBF on a path toward long-term, sustainable funding of periodic, or

major, maintenance on the full road network in Burkina Faso.

#### 4. Bright 2 Schools Project (\$28.83 million)

The BRIGHT 2 Schools Project extends the successful threshold program that focused on improving primary school completion rates for girls. The Project will consist of two phases. Phase one, scheduled for September 2008 to December 2009, will be an interim phase to provide temporary classroom solutions, maintain community interest at the Project schools, and prepare for the construction phase. Phase two, scheduled from the date the Compact enters into force and for the three consecutive years thereafter, will consist of construction work and other activities. The Project includes the construction of: (a) Up to 50 additional boreholes; (b) an additional classroom block of three classrooms for grades 4–6 at each of the 132 locations (for a total of 396 additional classrooms); and (c) of 122 *bisongos* (kindergartens), including playground and equipment. The Project will also provide daily meals (take-home rations) during all nine months of the school year for the approximately 100 children estimated to be enrolled at each of the 132 *bisongos* (including ten *bisongos* financed under the threshold program), and will fund a social mobilization campaign and an adult literacy/management of micro-projects activity.

The BRIGHT 2 Schools Project will be administered by the United States Agency for International Development (USAID) pursuant to an interagency agreement under Section 632(b) of the Foreign Assistance Act of 1961, as amended. MCC funds will cover direct and indirect costs incurred by USAID for the implementation of this Project.

#### C. Program Management

The GoBF, by a decree of the Council of Ministers dated April 18, 2008,

established MCA-Burkina Faso to serve as the accountable entity for implementation of the Compact. MCA-Burkina Faso will be administered and managed by an independent board of directors (“Board”) that will make strategic decisions and provide oversight. The Board will be comprised of eleven voting members, including six government officials. The Board also will benefit from the participation of a stakeholders committee consisting of up to 28 members including government officials, and representatives from the private sector and civil society. In addition to the Board, a management unit, led by a national coordinator, will manage the day-to-day activities of MCA-Burkina Faso and will be supported by key officers, technical staff, and administrative personnel.

MCA-Burkina Faso will engage line ministries and public institutions to serve as implementing entities. However, as the accountable entity, MCA-Burkina Faso will remain responsible for the successful implementation of the Compact. In addition, the GoBF has appointed, through competitive processes approved by MCC, third-party fiscal and procurement agents. As a government entity, MCA-Burkina Faso will be subject to GoBF audit requirements as well as audits required by the Compact.

#### D. Assessment

##### 1. Economic and Beneficiary Analysis

Many of the Compact investments are focused in the Boucle de Mouhoun region, the third poorest of Burkina Faso’s 13 regions. Approximately 80 percent of the region’s 1.4 million people live on less than \$1 per day. A smaller number of investments will be made in the Comoé region with an estimated population of 490,000. The table below summarizes the economic and beneficiary analysis for each Project.

TABLE 2.—PROJECTED BENEFICIARIES AND ECONOMIC RATES OF RETURN

Project	Beneficiaries	ERR	Description
Rural Land Governance	Up to 415,200 households, comprising up to 2,490,000 individuals, from 47 of Burkina Faso’s 302 rural communes will have access to local land registration and titling services, including up to 138,000 individuals who will benefit from up to 23,000 land titles expected to be delivered.	TBD (based on assessment of pilot investment).	The project is predicated on the benefits of reducing land conflict. This assumption will be tested during a pilot phase and will inform an ERR-based decision on scaling up the project.
Agricultural Development.	Up to 150,000 farmers, herders, members of producers groups and other traders, many of whom currently live on less than \$2 per day, will benefit from improved agricultural and livestock production conditions, better water managements, and improved access to credit.	7% .....	ERRs for the irrigation works are especially sensitive to crop prices. To be conservative, MCC used a composite of historical averages for key crops instead of current prices. Today’s prices would result in a higher overall Project ERR.

TABLE 2.—PROJECTED BENEFICIARIES AND ECONOMIC RATES OF RETURN—Continued

Project	Beneficiaries	ERR	Description
Roads .....	A portion of the 2.4 million inhabitants of the nine provinces surrounding the primary roads and up to 65,000 inhabitants of the 30 villages serviced by rural roads. Many of these beneficiaries are likely to be farmers buying and selling agricultural produce.	2% .....	In spite of low ERRs for the three primary roads, these are critical links to MCC-funded agricultural zones, allowing producers better access to markets, health and education facilities, and facilitating trade with neighboring countries.
BRIGHT 2 Schools .....	Up to 19,800 children, including 9,900 girls .....	Not applicable ....	This project is an extension of a successful threshold program and will be administered by USAID. As such, it was not subjected to MCC due diligence standards, including ERR calculations.

In addition to the beneficiaries identified above, national-level benefits are expected to result from the new land law associated with the Rural Land Governance Project and from the Roads Project's support of systemic improvements in the GoBF's long-term road maintenance strategy. Because the Projects are overlapping and there are synergies among projects, numerous individuals will benefit from more than one project. Drawing on lessons learned from previous Compacts, the cost estimates for Burkina Faso's large-scale infrastructure projects are conservative. For the Roads Project, base costs were derived from full feasibility-level studies and then doubled during due diligence, as MCC accounted for contingencies, environmental and social costs, and the higher costs of construction in a landlocked West Africa country. On the benefit side, MCC has generally not included benefits that cannot be quantified, a particular problem in a data-poor environment like Burkina Faso. In evaluating the Roads Project investment, MCC took into account the linkages between MCC-funded agricultural investments and markets, both national and regional. In particular, one road segment in the Boucle de Mouhoun region provides a critical link to the Mali border and is likely to reduce travel times and costs between Bamako and Ouagadougou. Another road segment in the Comoé Region provides an important link to Banfora, a regional market town that is frequented by traders from Ivory Coast and Ghana, which is likely to facilitate trade opportunities for local farmers.

## 2. Consultative Process

In connection with the proposal submitted to MCC, the GoBF conducted a robust consultative process in May and June of 2006, building on the success and lessons learned from the process used to prepare its Poverty Reduction Strategy Paper. The GoBF also engaged the media to inform the

public about the proposal for MCA assistance with a series of press releases, television interviews and press conferences. Consultations took place in all thirteen regions of the country and included representatives of civil society, the private sector, traditional authorities, farmers' and women's groups and local GoBF officials. Of the 3,115 participants, 87 percent came from civil society, and 18 percent were women. Overwhelmingly, input focused on improving the rural economy including ways to secure land tenure, intensify and modernize agricultural production, and improve the road network. Following the consultations, the GoBF distributed a summary document to partners in civil society and the donor community that resulted, after further revisions, in the proposal for funding submitted to MCC in October 2006. The Compact is designed specifically to address the core constraints to economic growth identified during the consultative process.

## 3. GoBF Commitment and Contribution to Development of the Compact

The GoBF has demonstrated substantial commitment to the Compact development process since becoming eligible for MCA assistance in November 2005. In February 2006, the GoBF carefully followed MCC guidance and established a full-time compact development unit at an operational cost of \$3.11 million. It financed an extensive consultation process throughout the country's 13 regions, at a total cost of \$0.33 million, and commissioned a \$2.36 million set of feasibility studies for the Roads Project. In setting up the accountable entity, the GoBF hired a recruitment firm to undertake the recruitment process for the key directors, at a cost of \$64,000. The estimated monetary value of these contributions together is \$5.86 million. For a country with a 2006 GNI per capita of \$460, this contribution

demonstrates the high national priority placed on the successful negotiation and implementation of this Compact. GoBF also has demonstrated its commitment through its effort to maintain eligibility on MCC indicators, and through its decision to establish the accountable entity under the auspices of the Office of the Prime Minister. In addition, the GoBF has committed to funding access roads and health infrastructure in the Sourou Valley agricultural zone as a complementary investment to MCC-financed activities.

## 4. Sustainability

(a) Rural Land Governance Project. The foundation of this Project is a reformed legal, policy and procedural framework for land tenure, which will ensure an enabling environment for sustainability of the MCC investment. All site-specific sub-activities will be based on new legal frameworks, ensuring their support in law. Most of the Project's site-specific interventions will be scalable through the phased approach, thus enabling the expected returns on an initial share of the investment to be tested before the Project is expanded. By requiring that phase two be based on demonstrated performance, the Project design stands as an innovative approach to ensuring results and investment sustainability. All training and equipment investments, particularly those associated with strengthening regional and provincial registration and mapping services, will be designed specifically for the Burkina Faso context.

(b) Agriculture Development Project. The overall sustainability of the Project lies with: (i) The strengthened capacity of the *Direction Générale des Ressources en Eau* ("DGRE") to better manage and maintain water storage in the Sourou reservoir; (ii) the strengthened capacity of the *Autorité de Mise en Valeur du Sourou* ("AMVS") within the Ministry of Agriculture, through its operation and maintenance contractors to provide a



reliable supply of water to farmers as specified in the by-laws of the project (*Cahier de Charges*); (iii) the capacity of beneficiaries, through their water user associations (“WUA”) to pay for operations and maintenance to ensure the provision of irrigation water; (iv) the establishment of an operations and maintenance fund managed and overseen by AMVS and the WUAs; and (v) the GoBF to ensure that the *Cahier de Charges* is respected by the parties to it. Disbursement of MCC funding will depend on the GoBF strengthening capacity to MCC’s satisfaction.

(c) Roads Project. Road maintenance is crucial for the long-term functioning of the Roads Project investment. The continuation of efforts to mobilize resources for road maintenance is essential to ensure sustainability of the road investments. The provision by MCC of matching funds to annual increases in GoBF spending on periodic (major) maintenance is an innovative mechanism to ensure roads are adequately maintained and an adequate long-term road maintenance system is in place.

(d) BRIGHT 2 Schools Project. The sustainability of MCC investments in this Project is contingent upon the GoBF providing trained teachers and school books for 396 classrooms. The GoBF has committed to providing these teachers and books and met similar requirements during the threshold phase. In addition, the GoBF will be obligated to nominate a BRIGHT 2 Schools Project coordinator and coordination team, and to provide an annual budget allocation to the Ministry of Basic Education and Literacy for teacher salaries and other recurrent costs for the existing 132 BRIGHT schools (including classrooms and other facilities funded under the BRIGHT 2 Schools Project).

## 5. Environment and Social Impacts

MCC will require that all Projects comply with national laws and regulations, MCC’s environmental guidelines and gender policy, and the World Bank’s Operational Policy on Involuntary Resettlement (“OP 4.12”). None of the Projects is likely to generate significant adverse environmental, health, or safety impacts, and all expected impacts can be mitigated. The environmental and social sustainability of the Compact will be enhanced through oversight, ongoing public consultation, and institutional capacity building.

The Rural Land Governance Project is classified as Category B under MCC’s environmental guidelines due to potential site-specific environmental and social impacts anticipated to result

from the construction of municipal buildings and field-level activities clarifying local land uses and land rights. While these impacts are not anticipated to be significant in nature, they will require mitigation through implementation of measures identified in an Environmental and Social Management Framework. Resettlement Action Plans (“RAPs”) also will be developed to adequately plan for and mitigate the resettlement impacts at building sites.

The Agriculture Development Project is classified as Category A under MCC’s environmental guidelines due to large-scale agriculture development activities involving intensification or conversion of natural habitats, with potential for significant impacts on sensitive locations as well as the potential for increased use of pesticides and increased surface water pollution. Given the potential for these significant social and environmental impacts, detailed assessments and mitigation plans will be required, including an environmental impact assessment (“EIA”) and RAP for the water management and irrigation activities, and EIAs for the agricultural activities.

The Roads Project is classified as Category B under MCC’s environmental guidelines as the potential environmental and social impacts related to upgrading and rehabilitating existing roads and supporting road maintenance are likely to be site-specific and mitigable. As a result, EIAs will be completed for each set of roads to be rehabilitated or upgraded, and each EIA will include gender analysis, environmental management plans and HIV/AIDS prevention plans.

For the BRIGHT 2 Schools Project, MCC and USAID have agreed that USAID Regulation 216 will be followed in lieu of MCC’s Environmental Guidelines and Gender Policy.

## 6. Donor, Multilateral, and Interagency Coordination

MCC has consulted extensively on each of the proposed Projects with the major donors in Burkina Faso, including, the World Bank, the European Union (“EU”), the French Development Agency (*Agence Française de Développement*, or “AFD”), the Danish International Development Agency (“DANIDA”), the German Agency for Technical Cooperation (*Deutsche Gesellschaft für Technische Zusammenarbeit GmbH*, or “GTZ”), the Austrian Development Corporation, the Luxembourg Agency for Development Cooperation, the International Fund for Agricultural Development (“IFAD”), the International Finance Corporation

(“IFC”), the African Development Bank (“AfDB”), the United Nations Food and Agriculture Organization (“FAO”), the Swedish International Development Agency (“SIDA”), the United Nations Development Program (“UNDP”), and USAID.

In several cases, MCC-funded activities complement or directly build on initiatives by other donors. For example, as part of the Agriculture Development Project, the market information system will continue work begun under a USAID project, and the improvements to district markets will draw on the experience of the Swiss Development Agency. Synergies will also be gained in the implementation of the Access to Rural Finance activity through close coordination with the IFC’s micro-, small- and medium-sized enterprise credit program, the World Bank’s *Projet d’Appui aux Filières Agro-Sylvo-Pastoral* Project (“PAFASP”), and the World Bank and EU-funded *Maison de l’Entreprise* which provides business support services.

In addition, technical assistance under the Roads Project has been structured to complement ongoing technical assistance programs, to build on the World Bank’s assistance that resulted in the establishment of the Road Fund, and to strengthen work initiated by the AfDB and the EU on road maintenance. Design of the Incentive Matching Fund for Periodic Maintenance (“IMFP”), in particular, was developed in collaboration with the World Bank and the EU.

Finally, the BRIGHT 2 Schools Project, to be administered by USAID, is a model of interagency coordination and the first time MCC and USAID have partnered directly in connection with the implementation of a compact-funded project.

## Millennium Challenge Compact Between the United States of America Acting Through the Millennium Challenge Corporation and the Government of Burkina Faso

### Table of Contents

Article 1. Goal and Objectives	
Section 1.1	Compact Goal
Section 1.2	Project Objectives
Article 2. Funding and Resources	
Section 2.1	Program Funding
Section 2.2	Compact Implementation
Funding	
Section 2.3	MCC Funding
Section 2.4	Disbursement
Section 2.5	Interest
Section 2.6	Government Resources;
Budget	
Section 2.7	Limitations on the Use of
MCC Funding	
Section 2.8	Taxes
Article 3. Implementation	



Section 3.1	Program Implementation Agreement
Section 3.2	Government Responsibilities
Section 3.3	Policy Performance
Section 3.4	Government Assurances
Section 3.5	Implementation Letters
Section 3.6	Procurement
Section 3.7	Records; Accounting; Covered Providers; Access
Section 3.8	Audits; Reviews
Article 4.	Communications
Section 4.1	Communications
Section 4.2	Representatives
Section 4.3	Signatures
Article 5.	Termination; Suspension; Refunds
Section 5.1	Termination; Suspension
Section 5.2	Refunds; Violation
Section 5.3	Survival
Article 6.	Compact Annexes; Amendments; Governing Law
Section 6.1	Annexes
Section 6.2	Amendments
Section 6.3	Inconsistencies
Section 6.4	Governing Law
Section 6.5	Additional Instruments
Section 6.6	References to MCC Web site
Section 6.7	References to Laws, Regulations, Policies and Guidelines
Section 6.8	MCC Status
Article 7.	Entry Into Force
Section 7.1	Domestic Requirements
Section 7.2	Conditions Precedent to Entry into Force
Section 7.3	Date of Entry into Force
Section 7.4	Compact Term
Section 7.5	Provisional Application
Annex I:	Program Description
Annex II:	Summary of the Multi-Year Financial Plan
Annex III:	Description of the Monitoring and Evaluation Plan
Annex IV:	Conditions to CIF Disbursement

## Millennium Challenge Compact

### Preamble

This Millennium Challenge Compact (this “*Compact*”) is between the United States of America, acting through the Millennium Challenge Corporation, a United States government corporation (“*MCC*”), and the Government of Burkina Faso (the “*Government*”) (individually, each of *MCC* and the Government, a “*Party*,” and collectively, the “*Parties*”).

Recalling that the Government consulted with the private sector and civil society of Burkina Faso to determine the priorities for the use of Millennium Challenge Account assistance and developed and submitted to *MCC* a proposal for such assistance; and

Recognizing that *MCC* wishes to help Burkina Faso implement a program to achieve the Compact Goal and Project Objectives described herein (the “*Program*”),

The Parties hereby agree as follows:

## Article 1. Goal and Objectives

### Section 1.1 Compact Goal

The goal of this Compact is to reduce poverty in Burkina Faso through economic growth (the “*Compact Goal*”).

### Section 1.2 Project Objective

The objectives of the Projects (as further described in Annex I) (each, a “*Project Objective*”) are:

(a) To increase investment in land and rural productivity through improved land tenure security and land management;

(b) To expand the productive use of land in order to increase the volume and value of agricultural production in Project zones;

(c) To enhance access to markets through investments in the road network; and

(d) To increase primary school completion rates for girls.

## Article 2. Funding and Resources

### Section 2.1 Program Funding

*MCC* hereby grants to the Government, under the terms of this Compact, an amount not to exceed Four Hundred Sixty-Four Million Eight Hundred Forty-Two Thousand Five Hundred and Four United States Dollars (US\$464,842,504) (“*Program Funding*”) for use by the Government to implement the Program. The allocation of Program Funding uses is generally described in Annex II to this Compact.

### Section 2.2 Compact Implementation Funding

(a) *MCC* hereby grants to the Government, under the terms of this Compact, in addition to the Program Funding described in Section 2.1, an amount not to exceed Sixteen Million One Hundred One Thousand and Sixty-Five United States Dollars (US\$16,101,065) (“*Compact Implementation Funding*” or “*CIF*”) under Section 609(g) of the Millennium Challenge Act of 2003, as amended (the “*MCA Act*”), for use by the Government for the following purposes:

(i) Feasibility and design studies, strategic environmental (and social) assessments, environmental impact assessments, environmental management plans and resettlement action plans for projects and activities included in the Program;

(ii) Financial management and procurement activities;

(iii) Monitoring and evaluation activities;

(iv) Administration activities, including salaries, benefits, and administrative support expenses such as

rent, information technology, and other capital expenditures; and

(v) Other Compact implementation activities approved by *MCC*.

The allocation of Compact Implementation Funding uses is generally described in Annex II to this Compact.

(b) Notwithstanding the provisions of Section 7.3 of this Compact, this Section 2.2, together with any other provisions of this Compact applicable to Compact Implementation Funding, shall be effective as of the date this Compact is signed by *MCC* and the Government.

(c) Each Disbursement of Compact Implementation Funding shall be subject to satisfaction of the conditions to such Disbursement as set forth in Annex IV.

(d) If *MCC* determines that the full amount of Compact Implementation Funding under Section 2.2(a) of this Compact exceeds the amount which reasonably can be utilized for the purposes and uses set forth in Section 2.2(a) of this Compact within one year after this Compact enters into force, *MCC*, by written notice to the Government, may withdraw the excess amount, thereby reducing the amount of the Compact Implementation Funding as set forth in Section 2.2(a) (such excess, the “*Excess CIF Amount*”). In such event, the amount of Compact Implementation Funding granted to the Government under Section 2.2(a) will be reduced by the Excess *CIF* Amount, and *MCC* will have no further obligations with respect to such Excess *CIF* Amount.

(e) *MCC*, at *MCC*’s option by written notice to the Government, may elect to grant to the Government an amount equal to all or a portion of such Excess *CIF* Amount as an increase in the Program Funding, and such additional Program Funding will be subject to the terms and conditions of this Compact applicable to Program Funding.

### Section 2.3 MCC Funding

Program Funding and Compact Implementation Funding are collectively referred to in this Compact as “*MCC Funding*.”

### Section 2.4 Disbursement

In accordance with this Compact and the Program Implementation Agreement, *MCC* will disburse *MCC* Funding for expenditures incurred in furtherance of the Program (each instance, a “*Disbursement*”). Subject to the satisfaction of all applicable conditions, the proceeds of such Disbursements will be made available to the Government, at *MCC*’s sole election, by (a) deposit to one or more bank

accounts established by the Government and acceptable to MCC (each, a “Permitted Account”), or (b) direct payment to the relevant provider of goods, works or services in connection with the implementation of the Program. MCC Funding may be expended only to cover Program expenditures as provided in this Compact and the Program Implementation Agreement.

#### Section 2.5 Interest

The Government will pay to MCC any interest or other earnings that accrue on MCC Funding in accordance with the Program Implementation Agreement (whether by directing such payments to a bank account outside Burkina Faso that MCC may from time to time indicate or as otherwise directed by MCC).

#### Section 2.6 Government Resources; Budget

(a) The Government will provide all funds and other resources, and will take all actions, that are necessary to carry out the Government’s responsibilities and obligations under this Compact.

(b) The Government will use its best efforts to ensure that all MCC Funding it receives or is projected to receive in each of its fiscal years is fully accounted for in its annual budget on a multi-year basis.

(c) The Government will not reduce the normal and expected resources that it would otherwise receive or budget from sources other than MCC for the activities contemplated under this Compact and the Program.

(d) Unless the Government discloses otherwise to MCC in writing, MCC Funding will be in addition to the resources that the Government would otherwise receive or budget for the activities contemplated under this Compact and the Program.

#### Section 2.7 Limitations on the Use of MCC Funding

The Government will ensure that MCC Funding will not be used for any purpose that would violate United States law or policy, as specified in this Compact or as further notified to the Government in writing or by posting from time to time on the MCC Web site at [www.mcc.gov](http://www.mcc.gov) (the “MCC Web site”), including but not limited to the following purposes:

(a) For assistance to, or training of, the military, police, militia, national guard or other quasi-military organization or unit;

(b) For any activity that is likely to cause a substantial loss of United States

jobs or a substantial displacement of United States production;

(c) To undertake, fund or otherwise support any activity that is likely to cause a significant environmental, health, or safety hazard, as further described in MCC’s Environmental Guidelines posted from time to time on the MCC Web site (the “MCC Environmental Guidelines”); or

(d) To pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions, to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations or to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning.

#### Section 2.8 Taxes

(a) Unless the Parties otherwise specifically agree in writing, and subject to the provisions of Sections 2.8(b)(ii) and (iii) and 2.8(c), the Government will ensure that each of the following is free from the payment of any existing or future taxes, duties, levies, contributions or other similar charges (“Taxes”) of or in Burkina Faso (including any such Taxes imposed by a national, regional, local or other governmental or taxing authority of or in Burkina Faso): (i) The Program; (ii) MCC Funding; (iii) interest or earnings on MCC Funding; (iv) any Project or activity implemented under the Program; (v) the Accountable Entity (as defined below); (vi) goods, works, services, technology and other assets and activities under the Program or any Project; (vii) persons and entities that provide such goods, works, services, technology and assets or perform such activities; and (viii) income, profits and payments with respect thereto. The Parties acknowledge and agree that the foregoing includes, *inter alia*, value added and other transfer taxes, profit and income taxes, property and *ad valorem* taxes, import and export duties and taxes (including for goods imported and re-exported for personal use), withholding taxes, payroll taxes, and social security and social insurance contributions.

(b) The Government and MCC may, at MCC’s discretion, enter into one or more agreements setting forth the mechanisms for implementing this Section 2.8, including, but not limited to (i) waivers of certain filing and compliance requirements relating to Taxes; (ii) an agreement on exceptions

to Section 2.8(a) above for fees or charges for services that are generally applicable in Burkina Faso, reasonable in amount and imposed on a non-discriminatory basis; and (iii) one or more mechanisms to implement the provisions of Section 2.8(a) with respect to all or any of the Taxes that would otherwise be applicable, which may include exemptions from payment of such Taxes that have been granted in accordance with applicable law, refund or reimbursement of such Taxes by the Government to MCC or to the taxpayer, or payment by the Government to the Accountable Entity or MCC, for the benefit of the Program, an agreed amount in respect of any Taxes collected on the items described in Section 2.8(a).

(c) Unless otherwise specified in an agreement entered into pursuant to Section 2.8(b), the provisions of Section 2.8(a) shall not apply to income Taxes on and contributions with respect to individuals who are nationals of Burkina Faso; *provided*, that such Taxes and contributions are not discriminatory and are generally applicable to all nationals in Burkina Faso; and *provided, further*, that in any event Section 2.8(a) shall apply to Millennium Challenge Account—Burkina Faso, an independent entity established under the office of the Prime Minister by Decree No. 2008–185/PRES/PM dated April 18, 2008 (“MCA—Burkina Faso”), or any other entity established by the Government solely for purposes of managing or overseeing implementation of the Program (MCA—Burkina Faso and any such other entity, each, an “Accountable Entity”).

(d) If a Tax has been paid contrary to the requirements of this Section 2.8 or any agreement entered into pursuant to this Section 2.8, the Government will refund promptly to MCC (or to another party as designated by MCC) the amount of such Tax in United States Dollars (“US\$”) or CFA Francs (as elected by MCC) within thirty (30) days (or such other period as may be agreed in writing by the Parties) after the Government is notified in writing (whether by MCC or otherwise) that such Tax has been paid.

(e) No MCC Funding, proceeds thereof or Program assets may be applied by the Government in satisfaction of its obligations under this Section 2.8.

### Article 3. Implementation

#### Section 3.1 Program Implementation Agreement

The Government will implement the Program in accordance with this Compact and as further specified in an agreement to be entered into by MCC,

the Government and the Accountable Entity and relating to, among other matters, implementation arrangements, fiscal accountability and disbursement and use of MCC Funding (the “*Program Implementation Agreement*” or “*PIA*”).

### *Section 3.2 Government Responsibilities*

(a) The Government has principal responsibility for overseeing and managing the implementation of the Program.

(b) With the prior written consent of MCC, the Government may designate an entity to implement some or all of the Government’s obligations or to exercise any rights of the Government under this Compact or the Program Implementation Agreement. Such a designation will not relieve the Government of any designated obligations and rights, for which the Government will retain full responsibility.

(c) The Government will ensure that no law or regulation in Burkina Faso now or hereinafter in effect makes or will make unlawful or otherwise prevent or hinder the performance of any of the Government’s obligations under this Compact, the Program Implementation Agreement or any other related agreement or any transaction contemplated hereby or thereby.

(d) The Government will ensure that any assets or services funded in whole or in part (directly or indirectly) by MCC Funding will be used solely in furtherance of this Compact and the Program unless otherwise agreed by MCC in writing.

(e) The Government will take all necessary or appropriate steps to achieve the Compact Goal and the Project Objectives during the Compact Term (as defined in Section 7.4).

### *Section 3.3 Policy Performance*

In addition to undertaking the specific policy, legal and regulatory reform commitments identified in Annex I (if any), the Government will seek to maintain and to improve its level of performance under the policy criteria identified in Section 607 of the MCA Act, and the selection criteria and methodology used by MCC.

### *Section 3.4 Government Assurances*

The Government assures MCC that:

(a) As of the date this Compact is signed by the Government, the information provided to MCC by or on behalf of the Government in the course of reaching agreement with MCC on this Compact is true, correct and complete in all material respects;

(b) This Compact does not, and will not, conflict with any other international agreement or obligation of the Government or any of the laws of Burkina Faso; and

(c) The Government will not invoke any of the provisions of its internal law to justify or excuse a failure to perform its duties or responsibilities under this Compact.

### *Section 3.5 Implementation Letters*

From time to time, MCC may provide guidance to the Government in writing on any matters relating to this Compact, MCC Funding, or implementation of the Program (each, an “*Implementation Letter*”). The Government will apply such guidance in implementing the Program.

### *Section 3.6 Procurement*

The Government will ensure that the procurement of all goods, works and services by the Government or any Provider (as defined in Section 3.7(c)) to implement the Program will be consistent with the program procurement guidelines posted from time to time on the MCC Web site (the “*MCC Program Procurement Guidelines*”). The MCC Program Procurement Guidelines will include, among others, the following requirements:

(a) Open, fair, and competitive procedures must be used in a transparent manner to solicit, award and administer contracts and to procure goods, works and services;

(b) Solicitations for goods, works and services must be based upon a clear and accurate description of the goods, works and services to be acquired;

(c) Contracts must be awarded only to qualified contractors that have the capability and willingness to perform the contracts in accordance with their terms on a cost effective and timely basis; and

(d) No more than a commercially reasonable price, as determined, for example, by a comparison of price quotations and market prices, will be paid to procure goods, works and services.

### *Section 3.7 Records; Accounting; Covered Providers; Access*

(a) Government Books and Records. The Government will maintain, and will use its best efforts to ensure that all Covered Providers (as defined in Section 3.7(c)) maintain, accounting books, records, documents and other evidence relating to the Program adequate to show to MCC’s satisfaction the use of all MCC Funding (“*Compact Records*”). In addition, the Government

will furnish or cause to be furnished to MCC, upon its request, all such Compact Records.

(b) Accounting. The Government will maintain, and will use its best efforts to ensure that all Covered Providers maintain, Compact Records in accordance with generally accepted accounting principles prevailing in the United States, or at the Government’s option and with MCC’s prior written approval, other accounting principles, such as those (i) prescribed by the International Accounting Standards Board, or (ii) then prevailing in Burkina Faso. Compact Records must be maintained for at least five (5) years after the end of the Compact Term or for such longer period, if any, required to resolve any litigation, claims or audit findings or any statutory requirements.

(c) Providers and Covered Providers. Unless the Parties agree otherwise in writing, a “*Provider*” is (i) any entity of the Government that receives or uses MCC Funding or any other Program asset in carrying out activities in furtherance of this Compact, or (ii) any third party that receives at least US\$50,000 in the aggregate of MCC Funding (other than as salary or compensation as an employee of an entity of the Government) during the Compact Term. A “*Covered Provider*” is (i) a non-United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) US\$300,000 or more of MCC Funding in any Government fiscal year or any other non-United States person or entity that receives, directly or indirectly, US\$300,000 or more of MCC Funding from any Provider in such fiscal year, or (ii) any United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) US\$500,000 or more of MCC Funding in any Government fiscal year or any other United States person or entity that receives, directly or indirectly, US\$500,000 or more of MCC Funding from any Provider in such fiscal year.

(d) Access. Upon MCC’s request, the Government, at all reasonable times, will permit, or cause to be permitted, authorized representatives of MCC, an authorized United States inspector general, the United States Government Accountability Office, any auditor responsible for an audit contemplated herein or otherwise conducted in furtherance of this Compact, and any agents or representatives engaged by MCC or the Government to conduct any assessment, review or evaluation of the Program, the opportunity to audit, review, evaluate or inspect facilities and activities funded in whole or in part by MCC Funding.

### Section 3.8 Audits; Reviews

(a) Government Audits. Except as the Parties may otherwise agree in writing, the Government will, on at least a semi-annual basis, conduct, or cause to be conducted, financial audits of all disbursements of MCC Funding covering the period from signing of this Compact until the earlier of the following December 31 or June 30 and covering each six-month period thereafter ending December 31 and June 30, through the end of the Compact Term, in accordance with the terms of the Program Implementation Agreement. In addition, upon MCC's request, the Government will ensure that such audits are conducted by an independent auditor approved by MCC and named on the list of local auditors approved by the Inspector General of MCC (the "Inspector General") or a United States-based certified public accounting firm selected in accordance with the Guidelines for Financial Audits Contracted by MCA (the "Audit Guidelines") issued and revised from time to time by the Inspector General, which are posted on the MCC Web site. Audits will be performed in accordance with the Audit Guidelines and be subject to quality assurance oversight by the Inspector General. Each audit must be completed and the audit report delivered to MCC no later than 90 days after the first period to be audited and no later than 90 days after each June 30 and December 31 thereafter, or such other period as the Parties may otherwise agree in writing.

(b) Audits of United States Entities. The Government will ensure that agreements between the Government or any Provider, on the one hand, and a United States nonprofit organization, on the other hand, that are financed with MCC Funding state that the United States nonprofit organization is subject to the applicable audit requirements contained in OMB Circular A-133 issued by the United States Government Office of Management and Budget ("OMB"). The Government will ensure that agreements between the Government or any Provider, on the one hand, and a United States for-profit Covered Provider, on the other hand, that are financed with MCC Funding state that the United States for-profit organization is subject to audit by the applicable United States Government agency, unless the Government and MCC agree otherwise in writing.

(c) Corrective Actions. The Government will use its best efforts to ensure that Covered Providers take, where necessary, appropriate and timely corrective actions in response to audits,

consider whether a Covered Provider's audit necessitates adjustment of the Government's records, and require each such Covered Provider to permit independent auditors to have access to its records and financial statements as necessary.

(d) Audit by MCC. MCC will have the right to arrange for audits of the Government's use of MCC Funding.

(e) Cost of Audits, Reviews or Evaluations. MCC Funding may be used to fund the costs of any audits, reviews or evaluations required under this Compact.

## Article 4. Communications

### Section 4.1 Communications

Any document or communication required or submitted by either Party to the other under this Compact must be in writing and, except as otherwise agreed with MCC, in English. For this purpose, the address of each Party is set forth below.

#### To MCC:

Millennium Challenge Corporation,  
Attention: (a) Before this Compact enters into force, Vice President, Compact Development; and (b) after this Compact enters into force, Vice President, Compact Implementation, (in each case, with a copy to the Vice President and General Counsel), 875 Fifteenth Street, NW., Washington, DC 20005, United States of America, Facsimile: (202) 521-3700, Telephone: (202) 521-3600, E-mail: [VPDevelopment@mcc.gov](mailto:VPDevelopment@mcc.gov) (Vice President, Compact Development), [VPImplementation@mcc.gov](mailto:VPImplementation@mcc.gov) (Vice President, Compact Implementation), [VPGeneralCounsel@mcc.gov](mailto:VPGeneralCounsel@mcc.gov) (Vice President and General Counsel).

#### To the Government:

Ministère de l'Economie et des Finances, Attention: Minister of Economy and Finance, *Ministre de l'Economie et des Finances*, Avenue du Général Bila Jean Gérard ZAGRE, 01 BP: 7012 Ouagadougou 01, Burkina Faso, Facsimile: +226 50 31 27 15, Telephone: 226 50 32 42 11.

### Section 4.2 Representatives

For all purposes of this Compact, the Government will be represented by the individual holding the position of, or acting as, the Minister of Economy and Finance, and MCC will be represented by (a) before this Compact enters into force, the individual holding the position of, or acting as, Vice President, Compact Development, and (b) after this Compact enters into force, the individual holding the position of, or acting as, Vice President, Compact Implementation (each of the foregoing, a

"Principal Representative"). Each Party, by written notice to the other Party, may designate one or more additional representatives for all purposes other than signing amendments to this Compact. A Party may change its Principal Representative to a new representative that holds a position of equal or higher rank upon written notice to the other Party.

### Section 4.3 Signatures

With respect to all documents other than this Compact or an amendment to this Compact, a signature delivered by facsimile or electronic mail will be binding on the Party delivering such signature to the same extent as an original signature would be.

## Article 5. Termination; Suspension; Refunds

### Section 5.1 Termination; Suspension

(a) Either Party may terminate this Compact in its entirety by giving the other Party thirty (30) days' written notice.

(b) MCC may, immediately, upon written notice to the Government, suspend or terminate this Compact or MCC Funding, in whole or in part, and any obligation related thereto, if MCC determines that any circumstance identified by MCC as a basis for suspension or termination (whether in writing to the Government or by posting on the MCC Web site) has occurred, which circumstances include but are not limited to the following:

(i) The Government fails to comply with its obligations under this Compact, the Program Implementation Agreement or any other agreement or arrangement entered into by the Government in connection with this Compact or the Program;

(ii) An event or series of events has occurred that MCC determines makes it probable that any of the Project Objectives will not be achieved during the Compact Term or that the Government will not be able to perform its obligations under this Compact;

(iii) A use of MCC Funding or continued implementation of the Program violates or would violate applicable law or United States Government policy, whether now or hereafter in effect;

(iv) The Government or any other person or entity receiving MCC Funding or using assets acquired in whole or in part with MCC Funding is engaged in activities that are contrary to the national security interests of the United States;

(v) An act has been committed or an omission or an event has occurred that

would render Burkina Faso ineligible to receive United States economic assistance under Part I of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*), by reason of the application of any provision of the Foreign Assistance Act of 1961 or any other provision of law;

(vi) The Government has engaged in a pattern of actions inconsistent with the criteria used to determine the eligibility of Burkina Faso for assistance under the MCA Act; and

(vii) The Government or another person or entity receiving MCC Funding or using assets acquired in whole or in part with MCC Funding is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking.

(c) All Disbursements will cease upon expiration, suspension, or termination of this Compact; *provided, however*, MCC Funding may be used, in compliance with this Compact and the Program Implementation Agreement, to pay for (i) reasonable expenditures for goods, works or services that are properly incurred under or in furtherance of the Program before expiration, suspension or termination of this Compact, and (ii) reasonable expenditures (including administrative expenses) properly incurred in connection with the winding up of the Program within 120 days after the expiration, suspension or termination of this Compact, so long as the request for such expenditures is submitted within ninety (90) days after such expiration, suspension or termination.

(d) Subject to Section 5.1(c), upon the expiration, suspension or termination of this Compact, (i) any amounts of MCC Funding not disbursed by MCC to the Government will be automatically released from any obligation in connection with this Compact, and (ii) any amounts of MCC Funding disbursed by MCC but not expended under Section 2.4 before the expiration, suspension or termination of this Compact, plus accrued interest thereon will be returned to MCC within thirty (30) days after the Government receives MCC's request for such return; *provided, however*, that if this Compact is suspended or terminated in part, MCC may request a refund for only the amount of MCC Funding allocated to the suspended or terminated portion.

(e) MCC may reinstate any suspended or terminated MCC Funding under this Compact if MCC determines that the Government or other relevant person or entity has committed to correct each condition for which MCC Funding was suspended or terminated.

### Section 5.2 Refunds; Violation

(a) If any MCC Funding, any interest or earnings thereon, or any asset acquired in whole or in part with MCC Funding is used for any purpose in violation of the terms of this Compact, then MCC may require the Government to repay to MCC in United States Dollars the value of the misused MCC Funding, interest, earnings, or asset, plus interest within thirty (30) days after the Government's receipt of MCC's request for repayment. The Government will not use MCC Funding, proceeds thereof or Program assets to make such payment.

(b) Notwithstanding any other provision in this Compact or any other agreement to the contrary, MCC's right under this Section 5.2 for a refund will continue during the Compact Term and for a period of (i) five years thereafter, or (ii) one year after MCC receives actual knowledge of such violation, whichever is later.

### Section 5.3 Survival

The Government's responsibilities under Sections 2.5, 2.6, 2.7, 2.8, 3.7, 3.8, 5.1(c), 5.1(d), 5.2, 5.3 and 6.4 of this Compact will survive the expiration, suspension or termination of this Compact.

## Article 6. Compact Annexes; Amendments; Governing Law

### Section 6.1 Annexes

Each annex to this Compact constitutes an integral part hereof, and references to "Annex" mean an annex to this Compact unless otherwise expressly stated.

### Section 6.2 Amendments

(a) The Parties may amend this Compact only by a written agreement signed by the Principal Representatives.

(b) Without formally amending the Compact, the Parties may agree in writing, signed by the Principal Representatives, to modify any Annex to this Compact to, among others (i) suspend, modify or terminate any project described in Annex I (each, a "Project" and collectively, the "Projects") or to create a new project; (ii) change the designations and allocations of funds among the Projects, the Project activities, or any activity under Program administration or monitoring and evaluation, or between a Project identified as of the entry into force of this Compact and a new project; or (iii) add or delete any condition precedent described in Annex IV, *provided that* any such modification (A) is consistent in all material respects with the Compact Goal and the Project Objectives, (B) does not cause the

amount of Program Funding to exceed the aggregate amount specified in Section 2.1 of this Compact (as may be modified by operation of Section 2.2(e) of this Compact), (C) does not cause the amount of Compact Implementation Funding to exceed the aggregate amount specified in Section 2.2(a) of this Compact, (D) does not cause the Government's responsibilities or contribution of resources to be less than specified in this Compact, (E) does not extend the Compact Term, and (F) in the case of a modification to change the designations or allocations of funds among Projects, does not materially adversely affect any activity under Program administration or monitoring and evaluation.

### Section 6.3 Inconsistencies

In the event of any conflict or inconsistency between:

(a) Any Annex to this Compact and any of Articles 1 through 7, such Articles 1 through 7 will prevail; or

(b) This Compact and any other agreement between the Parties regarding the Program, this Compact will prevail.

### Section 6.4 Governing Law

This Compact is an international agreement and as such is governed by the principles of international law.

### Section 6.5 Additional Instruments

Any reference to activities, obligations or rights undertaken or existing under or in furtherance of this Compact or similar language will include activities, obligations and rights undertaken by, existing under or in furtherance of any agreement, document or instrument related to this Compact and the Program.

### Section 6.6 References to MCC Web Site

Any reference in this Compact, the Program Implementation Agreement or any other agreement entered into in connection with this Compact, to a document or information available on, or notified by posting on the MCC Web site will be deemed a reference to such document or information as updated or substituted on the MCC Web site from time to time.

### Section 6.7 References to Laws, Regulations, Policies and Guidelines

Each reference in this Compact, the Program Implementation Agreement or any other agreement entered into in connection with this Compact, to a law, regulation, policy, guideline or similar document will be construed as a reference to such law, regulation, policy, guideline or similar document as

it may, from time to time, be amended, revised, replaced, or extended and will include any law, regulation, policy, guideline or similar document issued under or otherwise applicable or related to such law, regulation, policy, guideline or similar document.

#### Section 6.8 MCC Status

MCC is a United States Government corporation acting on behalf of the United States Government in the implementation of this Compact. MCC and the United States Government have no liability under this Compact, are immune from any action or proceeding arising under or relating to this Compact, and the Government hereby waives and releases all claims related to any such liability. In matters arising under or relating to this Compact, neither MCC nor the United States Government will be subject to the jurisdiction of the courts or any other body of Burkina Faso.

### Article 7. Entry Into Force

#### Section 7.1 Domestic Requirements

The Government shall take all steps necessary to ensure that (a) this Compact and the Program Implementation Agreement and all of the provisions of this Compact and the Program Implementation Agreement are valid and binding and are in full force and effect in Burkina Faso; (b) this Compact, the Program Implementation Agreement and any other agreement entered into in connection with this Compact to which the Government and MCC are parties will be given the status of an international agreement if so stipulated therein; and (c) no laws of Burkina Faso (other than the constitution of Burkina Faso), whether now or hereafter in effect, will take precedence or prevail over the terms of this Compact or the Program Implementation Agreement.

#### Section 7.2 Conditions Precedent to Entry Into Force

Before this Compact enters into force:

(a) The Program Implementation Agreement must have been executed by the Government and MCC and have become effective;

(b) The Government must have delivered to MCC:

(i) A certificate signed and dated by the Principal Representative of the Government, or such other duly authorized representative of the Government acceptable to MCC, certifying that the Government has satisfied the requirements of Section 7.1;

(ii) A legal opinion from the Minister of Justice of Burkina Faso (or such other

legal representative of the Government acceptable to MCC), in form and substance satisfactory to MCC; and

(iii) Complete, certified copies of all decrees, legislation, regulations or other governmental documents relating to the Government's domestic requirements for this Compact to enter into force and the satisfaction of Section 7.1, which MCC may post on its Web site or otherwise make publicly available; and

(c) MCC must determine that after signature of this Compact, the Government has not engaged in any action or omission that is inconsistent with the eligibility criteria for MCC Funding.

#### Section 7.3 Date of Entry Into Force

This Compact will enter into force on the later of (a) the date of the last letter in an exchange of letters between the Principal Representatives confirming that each Party has completed its domestic requirements for entry into force of this Compact and (b) the date that all conditions set forth in Section 7.2 have been satisfied.

#### Section 7.4 Compact Term

This Compact will remain in force for five years after its entry into force, unless terminated earlier under Section 5.1 (the "Compact Term").

#### Section 7.5 Provisional Application

Upon signature of this Compact and until it has entered into force in accordance with Section 7.3, the Parties will provisionally apply the terms of this Compact; *provided*, that no MCC Funding, other than Compact Implementation Funding, will be made available or disbursed before this Compact enters into force.

In Witness Whereof, the undersigned, duly authorized by their respective governments, have signed this Compact this 14th day of July, 2008.

Done at Washington, D.C.

For Millennium Challenge Corporation, on behalf of the United States of America.

**John J. Danilovich,**  
Chief Executive Officer.

For the Government of Burkina Faso,  
Name: Jean Baptiste Marie Compaoré, Title:  
Ministre de l'Economie et des Finances.

### Annex I Program Description

#### A. Program Overview

This Annex I describes the Program that MCC Funding will support in Burkina Faso during the Compact Term.

#### 1. Background and Consultative Process

Burkina Faso is a landlocked country in Africa's Sahel region, bordering Benin, Cote d'Ivoire, Ghana, Mali, Niger, and Togo and with a population of

approximately 15.26 million people. Burkina Faso is predominantly a rural country, with 95 percent of the poor residing in rural areas. It also is one of the poorest countries in the world, ranking 176 out of 177 countries surveyed by the United Nations Development Program's 2007 Human Development Index. In an effort to address constraints to investment, Burkina Faso has undertaken several broad macroeconomic reforms since the mid-1990s, including market-oriented reforms, decentralization of power from the central government to local governments, adoption of a new labor code and business climate improvements. Despite these reforms and moderate economic growth, Burkina Faso continues to face severe constraints to reducing poverty.

In connection with the proposal submitted to MCC, the Government conducted a robust consultative process in May and June of 2006, building on the success and lessons learned from the process used to prepare its Poverty Reduction Strategy Paper. The Government also engaged the media to inform the public about the proposal for Millennium Challenge Account assistance with a series of press releases, television interviews and press conferences. Consultations took place in all thirteen regions of the country and included representatives of civil society, the private sector, traditional authorities, farmers' and women's groups and local government officials. Of the 3,115 participants, 87 percent came from civil society, and 18 percent were women. Overwhelmingly, input focused on improving the rural economy including ways to secure land tenure, intensify and modernize agricultural production, and improve the road network. The Program is designed specifically to address these constraints.

#### 2. Program Description

The Compact Goal is to reduce poverty through economic growth in Burkina Faso. The Program consists of the following Projects: the Rural Land Governance Project described in Part B of this Annex I (the "Rural Land Governance Project"), the Agriculture Development Project described in Part C of this Annex I (the "Agriculture Development Project"), the Roads Project described in Part D of this Annex I (the "Roads Project") and the BRIGHT 2 Schools Project described in Part E of this Annex I (the "BRIGHT 2 Schools Project"). Each activity to be funded by MCC as part of a Project is referred to herein, individually, as a

“Project Activity,” or collectively, as the “Project Activities”.

### 3. Environmental and Social Accountability

All of the Projects will be implemented in compliance with the MCC Environmental Guidelines, MCC’s Guidance on the Integration of Gender in Program Implementation delivered by MCC to the Government or posted on the MCC Web site (the “MCC Gender Policy”) and the World Bank’s Operational Policy on Involuntary Resettlement in effect as of July 2007 (“OP 4.12”). The Government also will ensure that the Projects comply with all national environmental laws and regulations, licenses and permits, except to the extent such compliance would be inconsistent with this Compact. The Government will: (a) Undertake and complete any environmental impact assessments (“EIA”), environmental assessments (“EA”), environmental management plans (“EMP”), resettlement action plans (“RAP”) and any other such assessments or plans, in form and substance satisfactory to MCC, and as required under the laws of Burkina Faso, the MCC Environmental Guidelines, this Compact, the Program Implementation Agreement, other supplemental agreements or as otherwise required by MCC; (b) implement to MCC’s satisfaction environmental and social mitigation measures identified in such assessments or plans; and (c) commit to fund, or ensure the funding of, any environmental mitigation (including costs of resettlement) in excess of MCC Funding not specifically provided for in the budget for any Project.

### B. Rural Land Governance Project

#### 1. Background

Inclusion of the Rural Land Governance Project in the Program reflects an understanding of the importance of sound property rights to economic growth and to social stability in Burkina Faso. The Project Objective of the Rural Land Governance Project is to increase investment in land and rural productivity through improved land tenure security and land management. Expected results include greater security of land rights and improved access to more efficient land institutions, which together contribute to economic growth and poverty reduction in rural areas.

The Government has demonstrated a commitment to adopting improved laws, regulations and administrative processes to meet its ambitious rural land tenure vision. The Rural Land Governance Project seeks to assist the

Government in fulfilling this commitment. A new rural land law is expected to be adopted prior to Entry into Force of the Compact, and will be based on the existing, stakeholder-driven 2007 Rural Land Policy (the “Rural Land Policy”). The Rural Land Governance Project also will support the Government’s implementation of the 2004 Decentralization Law (*Loi de 2004 portant Code Général des Collectivités Territoriales*, or the “Decentralization Law”), which authorizes transfer of key aspects of land governance to municipal governments.

#### 2. Summary of Project and Activities

The Rural Land Governance Project consists of the following mutually reinforcing Project Activities:

(a) Legal and Procedural Change and Communication.

This Project Activity will support the Government’s effort to develop and implement improved rural land legislation and to develop, revise and implement other legal and procedural frameworks. Specifically, MCC Funding will support:

(i) the Government’s finalization of the rural land law’s implementing regulations and revisions of relevant elements of the Agrarian and Land Reorganization (*Réorganisation Agraire et Foncière* or “RAF”) legislation, together with other legal reform support, including technical advisory services related to the rural land tenure law and support for participatory stakeholder processes and validation; and

(ii) Finalization of communications and outreach tools to ensure national awareness and practical applicability of the Government’s policy and legal reforms, including, but not limited to, the implementation of a stakeholder communications strategy and the development of manuals for local-level application of new legal provisions and tools.

(b) Institutional Development and Capacity Building.

This Project Activity, in conjunction with the Legal and Procedural Change and Communication Project Activity, will improve institutional capacity to deliver land services in rural areas. Specifically, MCC Funding will support:

(i) Improved land registration and mapping services, including institutional modernization analyses, training and capacity building, the purchase of equipment, imagery products, and surveying technology;

(ii) Decentralization of land tenure services, including training and support for new local land services personnel and the construction and basic equipping of up to 47 municipal

buildings to provide offices for the decentralized municipal land services while also serving as offices for other key local government functions; and

(iii) Capacity building to mediate land conflicts, including (A) capacity building within the justice sector through training for judges and associated personnel and practicing lawyers; (B) new law school curriculum modules focusing on land law and land conflict; (C) training of municipal officials, local village councils and local land services personnel on land conflict mediation; and (D) support for mobile land conflict tribunals.

MCC Funding also will support implementation of environmental and social mitigation measures as identified in the Environmental and Social Management Framework, or as otherwise may be appropriate, consistent with MCC Environmental Guidelines and OP 4.12.

(c) Site-Specific Land Tenure Interventions.

This Project Activity will ensure that both the Legal and Procedural Change and Communication Project Activity and the Institutional Development and Capacity Building Project Activity yield their intended benefits across municipalities and in targeted agricultural development zones. The Site-Specific Land Tenure Interventions Project Activity employs a cluster approach to project design, based around 15 clusters, each containing up to three to four municipalities.

Specifically, MCC Funding will support:

(i) Participatory land use management planning in up to 47 rural municipalities, including training, mapping, operational costs, and necessary assistance by regional and provincial institutions; and

(ii) Clarifying and securing rights in developed zones, including in up to eight existing agricultural schemes subject to the phasing approach, in the new MCC-funded irrigation scheme, and associated with approximately 14,500 parcels in Ganzourgou province.

MCC Funding also will support implementation of environmental and social mitigation measures as identified in the Environmental and Social Management Framework, or as otherwise may be appropriate, consistent with MCC Environmental Guidelines and OP 4.12.

Certain of the activities enumerated in Sections 2(b)(i), (b)(ii), (c)(i) and (c)(ii) above will be subject to a phased approach. Unless MCC otherwise agrees, phase one includes years one and two of the Compact Term. Phase one will target 17 municipalities with a complete package of technical assistance and



infrastructure construction, and also will include a set of up-front investments that are not municipality-specific. Phase two will include the balance of the Compact Term, and will target up to 30 additional municipalities for technical assistance and infrastructure as well as expand investment associated with the other sub-activities. MCC's decision to initiate phase two investments is subject to satisfaction of: (A) The achievement of an economic rate of return target; (B) achievement of legal and policy change targets, including (1) passage of the rural land law, (2) passage of the implementing regulations for the rural land law, (3) passage of relevant revisions as may be necessary or appropriate to the RAF legislation and (4) revision of the regulations or bylaws for managed agricultural zones (*Cahier de Charges Général*); (C) satisfactory progress on applicable performance indicators specified in the M&E Plan; and (D) sufficient progress toward milestones set in the Implementation Plan. In the event that MCC determines, in its sole discretion, that phase one fails to achieve the performance criteria outlined above, the MCC Funding associated with phase two may be reallocated to other Project Activities, consistent with Section 6.2(b) of the Compact.

### 3. Beneficiaries

The Rural Land Governance Project is expected to affect households and businesses nationally, primarily through the Legal and Procedural Change and Communication Project Activity, creating a better investment climate for existing and prospective rural producers.

The Institutional Development and Capacity Building Project Activity and the Site-Specific Land Tenure Interventions Project Activity additionally will benefit rural producers located in the targeted sites. These direct beneficiaries include producers in up to 47 of the country's 302 rural municipalities and in the targeted agricultural development zones. Targeted sites will be organized in 15 clusters of contiguous municipalities with the expectation that outcomes and impacts achieved by the cluster municipalities eventually will extend to other neighboring municipalities that are not targeted in this project, particularly as the clusters are allocated across all 13 administrative regions of the country. Several of the municipalities will overlap with the Agricultural Development Project and others will be along road segments to be supported under the Roads Project.

Improved land registration and mapping services at national, regional or provincial levels may also benefit other public or private users who are not located in target municipalities or managed scheme areas.

### 4. Sustainability

The foundation of this Project is a reformed legal, policy and procedural framework for land tenure, which will ensure an enabling environment for sustainability of the MCC investment. All site-specific sub-activities will be based on new legal tools, assuring their support in law. Training will target the range of local stakeholders to assure buy-in. Most of the Project's site-specific interventions will be scalable through the phased approach, thus enabling the expected returns on an initial share of the investment to be tested before the Project is expanded. By requiring that phase two be based on demonstrated performance, the Project design stands as an innovative approach to ensuring results and investment sustainability. All training and equipment investments, particularly those associated with strengthening regional and provincial registration and mapping services, will reflect analysis of appropriate and sustainable capacity building and technology choices.

The sustainability of the municipal buildings investment for each beneficiary municipal government in phase one and phase two will be supported by the requirement that municipal budgets contain sufficient resources for building operation and maintenance, consistent with Burkina Faso's current municipal government financing frameworks and procedures associated with the decentralization law. All participating municipal governments, or the Ministry of Economy and Finance on their behalf, will be required to submit for MCA-Burkina Faso and MCC approval a plan that details the operational arrangements for the finished building as a condition on the launch of the associated works procurements. These plans will include identification of the specific local services planned to operate out of each building as well as specific plans for building operations and maintenance.

### 5. Environmental and Social Mitigation Measures

The implementation of environmental management and gender integration plans will ensure the sustainability of the Rural Land Governance Project by mitigating potential impacts and strengthening Project design. An environmental and social management

framework ("ESMF") will be used to conduct the required environmental and social impact analysis of the municipal buildings. The ESMF will identify impacts as well as develop site-specific EMPs for each building site. RAPs will also be developed to adequately plan for and mitigate the resettlement impacts at building sites.

In addition, environmental and social safeguards consistent with applicable rules, regulations and best practices in Burkina Faso will be incorporated into all land use decision-making processes funded through the Site-Specific Land Tenure Interventions Project Activity. These safeguards will ensure the sustainable implementation of interventions in existing protected areas. Furthermore, the ESMF will develop a process to ensure community decision-making regarding restricting access to natural resources and establish measures to mitigate adverse impacts on livelihoods, such as the creation of a compensation fund to register and improve land to allow for successful realization of livelihood activities outside of protected areas. Finally, the implementation of the Rural Land Governance Project will be structured to ensure that women can benefit from the MCC-funded investments, through the integration of appropriate mechanisms into the new land law and into the overall implementation of the Project.

### 6. Donor Coordination

The Rural Land Governance Project builds on land tenure, rural development and decentralization efforts supported by the World Bank, the French Development Agency (*Agence Française de Développement* or "AFD"), the Danish International Development Agency ("DANIDA"), the German Agency for Technical Cooperation (*Deutsche Gesellschaft für Technische Zusammenarbeit GmbH*, or "GTZ"), the Austrian Development Corporation, the Luxembourg Agency for Development Cooperation, the International Fund for Agricultural Development ("IFAD"), the International Finance Corporation ("IFC"), the African Development Bank ("AfDB"), the United Nations Food and Agriculture Organization ("FAO"), the Swedish International Development Agency ("SIDA"), and the United Nations Development Program ("UNDP"). MCC funding will co-finance, with the World Bank, support for stakeholder consultation, legal drafting, and passage of the new land law and application texts, as well as outreach and dissemination once the new law is passed.



## 7. United States Agency for International Development

The United States Agency for International Development ("USAID") currently does not focus specifically on the land tenure sector in Burkina Faso. However, the Government will work with USAID, as appropriate, to identify potential opportunities for coordination with respect to the Rural Land Governance Project.

### C. Agriculture Development Project

#### 1. Background

The Project Objective of the Agriculture Development Project is to expand the productive use of land in order to increase the volume and value of agricultural production in Project zones. In that regard, the Agriculture Development Project is designed to increase rural incomes and employment and to enhance the competitiveness of the rural economies in the Sourou Valley and the Comoé Basin by addressing core constraints typical of rural Burkina Faso: poor water resource availability and management; weak beneficiary capacity; lack of access to information, markets, and inputs; and lack of access to credit. Expected results include increased agricultural production and productivity in Project zones, increased total area of land under irrigation in Di, and increased availability of rural credit in the Project's intervention zones.

#### 2. Summary of Project and Activities

The Agriculture Development Project consists of the following mutually reinforcing Project Activities:

##### (a) Water Management and Irrigation.

The Water Management and Irrigation Project Activity is designed to ensure adequate water availability, water delivery, flood control, and dam safety to support and protect investments in the Sourou Valley and Comoé Basin.

Specifically, MCC Funding will support:

(i) Preparation and implementation of Integrated Water Resources Management ("IWRM") plans for the Sourou Valley and Comoé Basin in conformity with Burkina Faso's integrated water resources management action plan (*Plan d'Action de la Gestion Intégrée des Ressources en Eau du Burkina Faso*) ("PAGIRE");

(ii) Rehabilitation of the Léry dam and associated infrastructure (the "Léry Dam");

(iii) Development of the Di irrigation scheme in the Sourou Valley;

(iv) Development of EIAs, EMPs, and RAPs for the respective investments and implementation of mitigation measures as identified in these assessments, or as

otherwise may be appropriate, to include compensation for physical and economic displacement of individuals, residences and businesses affected by such rehabilitation and construction, consistent with OP 4.12; and

(v) Provision of capacity building and technical assistance to establish the institutional framework and financial capacity for sustainable operation and maintenance of the water and irrigation infrastructure, including, but not limited to, capacity building and technical assistance to the *Autorité de Mise en Valeur de la Vallée du Sourou* ("AMVS") consistent with the recommendations of the AMVS Management Audit (as defined in sub-section (b) below).

##### (b) Diversified Agriculture.

The Diversified Agriculture Project Activity will build on the delivery of water in the Project zones by supporting on-farm production and related activities throughout the agricultural value chain. Specifically, MCC Funding will support:

(i) Extension services, demonstration farms and technical assistance services, assisting beneficiaries in irrigated and rain-fed areas;

(ii) Business development services, including transaction brokering, technology transfer, and links to the Access to Rural Finance Activity;

(iii) Expansion of market information systems and rehabilitation of district markets;

(iv) Improvement of the quality and accessibility of private animal health services and increasing the capacity of public agencies to provide technical support and professional training to veterinary practitioners; and

(v) Development of EIAs and EMPs for the respective investments and implementation of mitigation measures as identified in these assessments, or as otherwise may be appropriate.

A management audit of AMVS (the "AMVS Management Audit") will be conducted prior to Entry into Force of the Compact to assess the efficacy and efficiency of AMVS, including, but not limited to, its strategic planning, organization, operating systems, resources, and personnel and management systems. Following discussion of the recommendations of the AMVS Management Audit with key stakeholders, an action plan agreed by the Parties (the "AMVS Action Plan") will be implemented by AMVS.

##### (c) Access to Rural Finance.

This Project activity will increase medium- and long-term credit in the four western regions of Sud-Ouest, Hauts Bassins, Cascades, and Boucle du

Mouhoun. Specifically, MCC Funding will support:

(i) An on-lending facility to provide medium-to long-term loans, particularly to farmers and small- and medium-sized, rural and agricultural enterprises;

(ii) Improvement of the capacity of participating financial institutions to profitably and securely expand rural lending; and

(iii) Increasing the ability of creditworthy enterprises in the region to access credit, including women-owned enterprises.

#### 3. Beneficiaries

The principal beneficiaries of the irrigation investments will be people with some farming experience with dry-land crops who receive irrigated land. Many beneficiaries are expected to be those people who are earning less than US\$2/day and selection criteria for land allocation are designed to serve this category of beneficiaries. The farmers on the existing irrigation perimeters who will benefit from the technical assistance activities more likely fall into a slightly higher income category. Beneficiaries of the livestock, Léry Dam, and market investments are more likely to be like the relatively poor dry land farmers. Beneficiaries of the investments in the Water Management and Irrigation Project Activity and the Access to Rural Finance Project Activity will be widely distributed in Sourou, Hauts Basins, Sud Ouest, and Cascades Regions.

#### 4. Sustainability

The ability of farmers to adapt to new irrigation and agricultural methods, and the executing agencies to complete the project within the Compact Term, will be crucial for a successful and sustainable outcome. Availability of sufficient water resources and fertile soils, and the capacity for implementing proper operation and maintenance of facilities and infrastructure, are limiting factors to sustainable development in Burkina Faso. The Agriculture Development Project is designed to address these key constraints in partnership with the Government and with the commitment of beneficiaries. To achieve the Project's goals, MCC Funding will strengthen the capacity of key stakeholders through training and technical assistance, and will create the enabling environment that ensures proper levying of water fees and adequate operation and maintenance of the infrastructure and facilities.

The overall sustainability of the Project lies with: (a) The strengthened capacity of the *Direction Générale des Ressources en Eau* ("DGRE") to better manage and maintain water storage in

the Sourou reservoir; (b) the strengthened capacity of AMVS through its operation and maintenance contractors to provide a reliable supply of water to farmers as specified in the by-laws of the project (*Cahier de Charges*); (c) the capacity of beneficiaries, through their Water User Associations (“WUA”) to pay for operations and maintenance to ensure the provision of irrigation water; (d) the establishment of an operations and maintenance fund managed and overseen by AMVS and the WUAs; and (e) the Government to ensure that the *Cahier de Charges* is respected by the parties to it. Contingent upon full continuing execution of the operations and maintenance action plan pursuant to the AMVS Management Audit, a deposit of MCC Funding equal to approximately 1.5 times the estimated cost of operations and maintenance of the Di irrigation infrastructure for one year, may be made into the operations and maintenance fund, unless otherwise agreed by the Parties. Notwithstanding such deposits, MCC anticipates that farmers will, from the outset, pay water charges incrementally toward the full cost of operations and maintenance within the first two years of operation. With respect to the Léry Dam, the Government will ensure that a plan and adequate resources are in place to cover yearly operation and maintenance costs associated with the Léry Dam. Land allocation and future land management within the scheme area will be supported by general and specific by-laws (*Cahier de Charges*), whose content will be approved by MCC. The Rural Land Governance Project will support land use planning and management and capacity-building to the municipalities overlapping with targeted areas, and will support registration of rights in the targeted scheme areas.

Projects with similar objectives have failed in the past because of the failure of public and private entities to consistently deliver on their commitments to growers. The focus of this Project is not on building a particular service capacity for which external funding will always be needed. It rather will foster relationships between producers and commercial suppliers of the goods and services they need and between AMVS and the WUAs, so that mutual interest is served by each continuing to perform his or her part. The objective is to ensure that producers acquire the knowledge and the ability to recognize their needs for information, and to develop the network and capacity to meet that need, through

more diverse and direct sources than a conventional, public sector agent.

#### 5. Environmental and Social Mitigation Measures

Environmental sustainability of the Agriculture Development Project will be promoted through the implementation of site-specific interventions to reduce the potential for downstream surface water contamination, reforestation actions to address fuel-wood shortages, and use of pest management plans. Additionally, training and capacity building for the AMVS and Ministry of Environment officials will help ensure that environmental and social issues will be adequately managed. Social sustainability will be promoted by the integration of completed gender analysis into final Project design and terms of reference for implementation to ensure women and families benefit from Project investments, targeted training and through a transparent parcel allocation scheme. Thorough resettlement analysis will also contribute to social sustainability through the identification of mitigation and compensation measures that will factor into the Resettlement Action Plans.

Detailed assessments and mitigation plans will be developed for the Agriculture Development Project as follows: (a) EIAs, EMPs and RAPs for the water management and irrigation activities at Di and Léry, focusing on environmental, social, and resettlement impacts of the creation of the Di irrigated perimeter as well as the rehabilitation of the Léry Dam; (b) in connection with the Diversified Agriculture Project Activity, an EIA, EMP, and RAP for the market rehabilitation component, focusing on the environmental, social, and resettlement impacts of rehabilitating up to eight district markets; (c) an EIA and EMP of the diversified agriculture activities, focusing on the environmental impacts of agricultural intensification in the region and its aquatic ecosystems; (d) a plan to build environmental and social capacity for the AMVS to ensure that minimum capacity is present for monitoring impacts and monitoring compliance with MCC’s Environmental Guidelines and the MCC Gender Policy; and (e) appropriate guidelines and requirements for the Access to Rural Finance Project Activity to ensure that end-borrowers implement projects in compliance with the Government’s environmental regulations and MCC’s Environmental Guidelines.

#### 6. Donor Coordination

The Project design draws extensively on the work of other donors. MCC consulted with the EU on the IWRM, and with the World Bank and AfDB on irrigation and agriculture. Lessons learned, particularly with regard to including supporting technical assistance for farmers, have been incorporated to improve the design of this project and foster its sustainability. A number of other donors have been active in the target rural areas of the Project, including the World Bank, AfDB, USAID, the *Fonds Européen De Développement* (“FED”) as well as Swiss and Belgian bilateral aid agencies. In several cases, the actions to be taken under the Project complement other initiatives. For example, the market information system will continue work begun under a USAID project, and the improvements to district markets will draw on the experience of the Swiss Development Agency. In addition, the Access to Rural Finance Project Activity has been designed in consultation with other donor funded micro, small and medium sized rural enterprise (“MSME”) activities in Burkina Faso. In particular, synergies will be gained in implementation through close coordination with the International Finance Corporation’s MSME credit program, the World Bank’s *Projet d’Appui aux Filières Agro-Sylvo-Pastoral Project* (“PAFASP”), and the World Bank and EU-funded *Maison de l’Entreprise* which provides business support services. MCC anticipates that consultations will continue with these donors and with others who may develop interventions within the Project zones.

#### 7. United States Agency for International Development

USAID currently does not focus specifically on the agriculture sector in Burkina Faso. However, the Government will work with USAID, as appropriate, to identify potential opportunities for coordination with respect to the Agriculture Development Project.

#### 8. Policy, Legal and Regulatory Reforms

The Government will continue institutional reforms and initiatives aimed at sustainable water resource management that would support the development of the Integrated Water Resource Management plans prepared and financed pursuant to this Compact.

The Government will exercise its best efforts to ensure compliance of all stakeholders with their obligations as set out in the various *Cahier de Charges* relevant to the Di irrigation perimeter. If

such stakeholders fail to fulfill those obligations with respect to operation and maintenance of the irrigation system, the Government shall ensure that such operation and maintenance is performed in any event.

The Government will put in place in the Sourou Valley region adequate health infrastructure, and will deploy the necessary staff to ensure proper functioning of this infrastructure, in conformity with the standards of the National Health Service Plan (*Plan de Développement Sanitaire*) in use in Burkina Faso.

In addition, the implementation by the Government, to the satisfaction of MCC in its discretion, of the policy, legal and regulatory reform described below shall be conditions precedent to specified Disbursements: the Government will ensure the availability of funds and provide a timeline acceptable to MCC for the construction of identified agriculture access roads in the vicinity of the Di perimeter: (a) Di—Poura—Ourokou—Poron—Donon, and (b) Donon—Niassari—Bouna.

#### D. Roads Project

##### 1. Background

Burkina Faso's Poverty Reduction Strategy Paper identifies infrastructure development as a critical priority for increased economic growth. For a landlocked country, the road transport network is an important asset for economic development. Such a network facilitates trade and communications with regional and international markets and improves local connectivity of farms to markets. Road network investments also improve access to social services in rural communities, such as those in western Burkina Faso, which currently are underserved by an adequate transport system.

The Project Objective of the Roads Project is to enhance access to markets through investments in the road network. More specifically, the Roads Project is designed to: (a) Improve access to agricultural markets by upgrading primary and rural road segments serving the Sourou Valley and the Comoé Basin; (b) reduce travel time to markets and reduce vehicle operating costs; and (c) ensure the sustainability of the road network by strengthening road maintenance. Expected results include increased volume of freight and passenger traffic on rehabilitated roads, reduced travel times and costs, and improved road maintenance. The Project includes a set of primary and rural roads projects for upgrading to appropriate functional standards and designed to carry projected traffic for a

15 to 20 year horizon. Benefits are expected to result primarily from increasing the year-round accessibility to markets of agriculturally productive regions that are typically cut off during the rainy season.

##### 2. Summary of Project and Activities

The Roads Project consists of the following Project Activities:

###### (a) Development of Primary Roads.

The Development of Primary Roads Project Activity will support the improvements of three primary road segments in western Burkina Faso currently projected to total 271 kilometers. The segments to be financed using MCC Funding include the development of a 145 kilometer segment from Dedougou—Nouna—Mali border, the development of a 76 kilometer segment from Sabou—Koudougou—Didyr, and a 50 kilometer segment from Banfora—Sindou (collectively, the “Primary Roads”). Specifically, MCC Funding will support:

(i) Implementation of construction activities for the opening, improvement, or rehabilitation of the Primary Roads;

(ii) Implementation of environmental and social mitigation measures as identified in the EIA and the RAP, or as otherwise may be appropriate, to include compensation for physical and economic displacement of individuals, residences and businesses affected by such rehabilitation and construction, consistent with OP 4.12; and

(iii) Project management, supervision and auditing of such improvements and upgrades.

###### (b) Development of Rural Roads.

The Development of Rural Roads Project Activity will support the improvements of rural road segments currently projected to total 151 kilometers located in three rural areas in the Comoé Basin of southwestern Burkina Faso, including the Provinces of Leraba, Comoé, and Kenedougou (collectively, the “Rural Roads”). These roads currently exist as rural tracks and improvements will include upgrading to a fully engineered rural road standard. Specifically, MCC Funding will support:

(i) Implementation of construction activities for the opening, improvement, or rehabilitation of the Rural Roads;

(ii) Implementation of environmental and social mitigation measures as identified in the EIA and the RAP, or as otherwise may be appropriate, to include compensation for physical and economic displacement of individuals, residences and businesses affected by such rehabilitation and construction, consistent with OP 4.12; and

(iii) Project management, supervision and auditing of such improvements and upgrades.

###### (c) Capacity Building and Technical Assistance for Road Maintenance.

The Capacity Building and Technical Assistance Project Activity will provide capacity building and technical assistance to existing government agencies and private sector institutions involved with road maintenance activities to improve the planning and implementation of road maintenance.

Specifically, MCC Funding will support:

(i) Assistance in developing a five-year road maintenance plan;

(ii) Training on procurement processes, contract management, and financial accounting systems;

(iii) Support for development of administrative framework of the IMFP (as defined below);

(iv) Support for public outreach programs for improving safety and protection of road infrastructure; and

(v) Any other related activities as may be approved by MCC.

MCC Funding will also be used for environmental and social capacity building of the Ministry of Environment and Ministry of Infrastructure.

###### (d) Incentive Matching Fund for Periodic Road Maintenance.

The Incentive Matching Fund for Periodic Road Maintenance (“IMFP”) Project Activity is designed to set the Government on a path toward long-term, sustainable funding of periodic maintenance on the full road network in Burkina Faso. MCC Funding will be used to finance periodic road maintenance works through an incentive matching fund that will match annual increases in the Government's dedicated funding for periodic maintenance, subject to measurable indicators of performance on maintenance planning, capacity, and implementation. MCC and the Government envision that the IMFP will be administered by the Road Maintenance Fund of Burkina (*Fonds d'Entretien Routier du Burkina—FER—B*), an institution established by the Government in cooperation with the World Bank (the “Road Fund”). MCC Funding of the IMFP is subject to the fulfillment of the following conditions, as such conditions are further specified in the Program Implementation Agreement: (i) The preparation and delivery by the Government of a five-year road maintenance plan that will be updated annually; (ii) the presentation by the Government of evidence, satisfactory to MCC, that *Direction Générale des Routes* (“DGR”) and *Direction Générale des Pistes Rurales* (“DGPR”) have improved procurement,

contract management and implementation oversight capacities; (iii) the presentation by the Government of evidence, satisfactory to MCC, that the Road Fund has adopted appropriate financial controls (including cash management and accounting controls) and operational systems (including with respect to contract management), and such mechanisms are formalized, implemented and verified pursuant to technical and financial audits conducted in accordance with the by-laws (*Cahier de Charges*) of the Road Fund approved by MCC; and (iv) the establishment of the relative contributions of the Government and MCC to the IMFP, as agreed upon between MCC and the Government, and the provision by the Government of evidence of financing sufficient to meet the Government's share of such contributions. In connection with this sub-section (d), the Parties shall use their best efforts to consult with other donors where appropriate.

### 3. Beneficiaries

Key beneficiaries of the Roads Project will include the population in the areas serviced by the roads as well as those who transship goods through the region using the roads. Anticipated benefits include increased production (for both inputs such as fertilizer, and outputs such as farm produce) due to improved access to markets resulting from reduced travel time and reduced vehicle operating costs. In addition, reducing the isolation of these communities may increase access to health and education services.

### 4. Sustainability

Road maintenance is crucial for the long term function and benefit of the Roads Project investment. The continuation of efforts to mobilize resources for road maintenance is essential to ensure sustainability of the road investments. In support of road maintenance, the provision by MCC of matching funds to annual increases in Government spending on periodic maintenance is an innovative mechanism to ensure roads are adequately maintained and continue to stimulate access into the long-term.

### 5. Environmental and Social Mitigation Measures

Environmental sustainability of the Roads Project will be promoted through the conduct of comprehensive environmental and social impact assessments that will build upon the environmental and social work already completed. In addition, the Roads Project will include a series of training

and short-term educational seminars that will include coverage of sound environmental and social performance for existing contractors active in the road maintenance industry.

EIAs will be completed for each set of roads to be rehabilitated or upgraded, and each EIA will include gender analysis, EMPs and HIV/AIDS prevention plans. In addition, RAPs will be developed and implemented for each road segment. While environmental and social impacts related to the IMFP Project Activity are not expected to be significant, requirements will be incorporated into the design of the IMFP. Further, annual technical audits will include consideration of environmental and social performance.

### 6. Donor Coordination

Throughout due diligence, MCC has consulted with major donors involved in funding road construction and capacity building/institutional strengthening projects in Burkina Faso. MCC has been particularly active in coordinating its approach to road maintenance, an increasingly important collective concern among the major donors. Technical assistance under the Capacity Building and Technical Assistance for Road Maintenance Project Activity has been structured to complement ongoing technical assistance programs, to build on the World Bank's assistance that resulted in the establishment of the Road Fund, and to strengthen work initiated by the AfDB and the EU on road maintenance. Design of the IMFP, in particular, was developed in collaboration with the World Bank and the EU.

The road segments selected for MCC Funding provide connections with current road construction activities funded by other donors. The Koudougou to Dedougou road segment, funded by the Islamic Development Bank ("BID"), Arab Bank for Economic Development in Africa ("BADEA"), Arab Development Fund ("FAD"), Kuwait Fund for Arab Economic Development, Saudi Fund for Development, OPEC Fund for International Development and the Government, lies in between the Dedougou-Mali border road and the Sabou-Koudougou-Didyr road. The Sabou to Koudougou road segment intersects with the EU-funded periodic maintenance on the Sabou to Bobo-Dioulasso road and works on the Sabou to Ouagadougou road anticipated to be funded by the World Bank.

### 7. United States Agency for International Development

USAID currently does not focus specifically on the roads and transport sectors in Burkina Faso. However, the Government will work with USAID, as appropriate, to identify potential opportunities for coordination with respect to the Roads Project.

### 8. Policy, Legal and Regulatory Reforms

The implementation by the Government, to the satisfaction of MCC in its discretion, of the policy, legal and regulatory reforms described below shall be conditions precedent to the specified Disbursements:

(a) The Government will ensure that the Road Fund is fully operational in accordance with Burkina Faso law with all staff, management, and financial systems in place for efficient execution of the road maintenance works including contract management, performance monitoring and works verification.

(b) The Government will ensure that DGR and DGPR have improved operational processes to conduct procurement, contract management, and monitoring of road maintenance works, as measured by mutually agreed targets, to facilitate the implementation of the Road Fund.

(c) The Government will ensure that a transparent method of funding periodic maintenance is established to support the Road Fund.

In addition, the Government will actively pursue participation of the private sector in maintenance work through a series of training seminars and outreach activities to improve private sector understanding of procurement processes, contracting requirements, road maintenance methods/best practices, and maintenance standards.

### E. Bright 2 Schools Project

#### 1. Background

The Project Objective of the BRIGHT 2 Schools Project is to increase primary school completion rate for girls and builds upon the successes of the Burkinabé Response to Improve Girls' Chances to Succeed ("BRIGHT") funded under the MCC Threshold Program. In addition, the BRIGHT 2 Schools Project will further support the efforts of the Ministry of Basic Education and Literacy (*Ministère de l'Enseignement de Base et de l'Alphabétisation* or "MEBA") to increase girls' primary education completion rate. The Project focuses on maintaining high levels of girls' enrollment and retention as they move on to the higher grades (4–6) in

their new classrooms. Specific objectives of the Project are to: (a) Maintain the high enrollment rates; (b) anchor the girls' education principles in the respective communities for the benefit of future generations of school-aged girls; and (c) start a program for school maintenance.

The BRIGHT 2 Schools Project will consist of two phases. Phase one, scheduled from September 2008 to December 2009, will be an interim phase to provide temporary classroom solutions and to maintain community interest at the respective schools to be supported by Compact Implementation Funding. Phase two, scheduled from the date the Compact enters into force and for the three consecutive years thereafter, will consist of construction work in addition to all other Project Activities. Several months of anticipated overlap between phase one and phase two will allow for a smooth transition between the two stages.

The BRIGHT 2 Schools Project will be administered by USAID pursuant to an agreement between USAID and MCC (the "Administration Agreement"). Accordingly, the Government will not be responsible for Project Activities for which USAID has sole responsibility under the Administration Agreement (including with respect to applicable Disbursements to USAID). Notwithstanding the foregoing, the Government will cooperate with USAID and perform its obligations to achieve the BRIGHT 2 Schools Project Objective consistent with this Compact, the Program Implementation Agreement and any other Supplemental Agreement.

## 2. Summary of Project and Activities

The BRIGHT 2 Schools Project consists of the following mutually reinforcing Project Activities:

(a) Borehole Construction/ Rehabilitation and/or Water Catchment Systems.

MCC Funding will support some or all of the following:

- (i) The construction of up to 50 additional boreholes for the exclusive use of the school complex;
- (ii) The purchase and installation of pipe and water catchments, where technically feasible, in accordance with environmental regulations, and budget permitting; and
- (iii) Such other activities as may be determined by MCC in consultation with USAID.

(b) Construction of Schools Complexes.

MCC Funding will support the identification, in consultation with respective communities, of the exact location for expansion of existing

schools and their construction. It also will support the construction of an additional classroom block of three classrooms at each of the 132 locations, for a total of 396 additional classrooms (including equipment), 396 teacher housing units, (including latrine, bathing space and kitchen), two blocks of three latrines (for a total of 792 latrines), sports grounds and sports equipment.

(c) *Bisongos* (Kindergartens)

MCC Funding will support the construction of 122 *bisongos*, including playground and equipment. Such construction will utilize existing designs prepared by Catholic Relief Services and made available to the Ministry of Social Action and National Solidarity.

(d) Take-Home Rations.

This Project Activity will provide food for daily meals ("Take-Home Rations") during the nine months of the school year for approximately 100 children estimated to be enrolled at each of the 132 *bisongos*. The Project also will provide monthly Take-Home Rations for girls demonstrating 90 percent monthly attendance in grades 1–4 (*CP1–CE2*) during the nine-month school year. Forty-five girls per grade are estimated to be able to benefit from Take-Home Rations, which consist of approximately eight kilograms of rice or other dry foods. Take-Home Rations will be provided based on studies showing that school meals are an effective way of ensuring attendance and improving academic performance. Implementers will be encouraged to work with teachers and parents to create school gardens to enhance participation in canteen planning and management for nutritious meals. The initiative supports MEBA's strategic plan, and anticipates training sessions for teachers in the school garden concept and nutrition.

(e) Social Mobilization Campaign.

This Project Activity will build community ownership around the school and the value of education through social mobilization, literacy training, and other efforts in the 132 rural communities. Specifically, MCC Funding will support:

(i) Well-targeted social mobilization campaigns on topics to serve as content for literacy training, school director and teacher training, and as the basis for community discussion groups, including messages on gender parity, the lifelong value of education and literacy, school maintenance, canteen and *bisongo* management;

(ii) Assistance to the *Associations des Mères Educatrices* ("AME") to mentor girls;

(iii) Training teachers in sensitivity to gender issues; and

(iv) An incentive program for female teachers.

(f) Adult Literacy/Management of Micro-Projects.

MCC Funding will support the training of trainers, delivery of literacy courses, and training in micro-project management for women and mothers in the 132 communities. This Project Activity will build on existing literacy programs and lead to the development of training materials that respond to the needs of the communities and enhance the women's understanding of the benefits of their own education as well as their role in supporting their daughters' and the school in general. Specifically, MCC Funding will support:

(i) Training in management of micro-projects for income generation to help boost community development; and

(ii) Literacy training for mothers.

(g) *Program Support*.

MCC Funding will be used for direct and indirect costs incurred by USAID in the implementation of this Project.

## 3. Beneficiaries

Approximately 19,800 children, including approximately 9,900 girls, will benefit from the construction of the remaining classrooms for BRIGHT schools in 132 communities in 9 provinces. In addition, it is estimated that 13,200 children will benefit from the *bisongos* (kindergartens), 39,600 children will benefit from the meals provided in schools, and 13,200 girls and their families will benefit from the Take-Home Rations.

## 4. United States Agency for International Development

USAID will serve as the administrator for the BRIGHT 2 Schools Project pursuant to the Administration Agreement.

## 5. Policy, Legal and Regulatory Reforms

The Government will implement the policy, legal and regulatory reforms described below.

(a) The Government will ensure the nomination by MEBA of a BRIGHT 2 Schools Project Coordinator and Coordination Team, and shall ensure that a BRIGHT 2 Schools Project Coordinator and Coordination Team are in place for the duration of the Project.

(b) The Government will provide an annual budget allocation, in accordance with Section 2.6(c) of the Compact, to MEBA for teacher salaries and other recurrent costs for the existing 132 BRIGHT schools (including classrooms and other facilities funded under the BRIGHT 2 Schools Project).

## F. Implementation Framework

### 1. Overview

The implementation framework and the plan for ensuring adequate governance, oversight, management, monitoring and evaluation, and fiscal accountability for the use of MCC Funding are summarized below. MCC and the Government shall enter into the Program Implementation Agreement, and any other agreements in furtherance of this Compact, all of which, together with this Compact, shall set out certain rights, responsibilities, duties and other terms relating to the implementation of the Program.

### 2. MCC

MCC will take all appropriate actions to carry out its responsibilities in connection with this Compact and the Program Implementation Agreement, including the exercise of its approval rights in connection with the implementation of the Program.

### 3. MCA-Burkina Faso

The Government, by Decree No. 2008-185/PRES/PM dated April 18, 2008, of the Council of Ministers of Burkina Faso (the “Decree”), established MCA-Burkina Faso as an independent legal entity empowered to carry out the Government’s obligations and to implement the Program under this Compact. The Government shall ensure that MCA-Burkina Faso takes all appropriate actions to implement the Program, including the performance of the rights and responsibilities designated to it by the Government pursuant to this Compact and the Program Implementation Agreement. The Government also shall ensure that MCA-Burkina Faso has full decision-making autonomy, including, *inter alia*, the ability, without consultation with, or the consent or approval of, any other party, to (a) enter into contracts in its own name, (b) sue and be sued, (c) establish an account in a financial institution in the name of MCA-Burkina Faso and hold MCC Funding in that account, (d) expend MCC Funding, (e) engage one or more fiscal agents who will act on behalf of MCA-Burkina Faso on terms acceptable to MCC, (f) engage one or more procurement agents who will act on behalf of MCA-Burkina Faso, on terms acceptable to MCC, to manage the acquisition of the goods, works and services requested by MCA-Burkina Faso to implement the activities funded by this Compact, and (g) competitively engage one or more auditors to conduct audits of its accounts.

MCA-Burkina Faso will be administered and managed by the

following bodies: (a) *Le Comité d’Orientation et de Suivi*, acting as its Board of Directors (the “Board”); (b) *L’Unité de Coordination*, acting as its management unit (the “Management Unit”); and (c) *Le Conseil National*, acting as its stakeholders committee (the “Stakeholders Committee”). The governance of MCA-Burkina Faso will be set forth in more detail in the Program Implementation Agreement, the constitutive documents and internal regulations of MCA-Burkina Faso (“MCA-Burkina Faso Bylaws”) laying out the responsibilities of the Board, the Management Unit, and the Stakeholders Committee. The MCA-Burkina Faso Bylaws will be in accordance with MCC’s Guidelines for Accountable Entities and Implementation Structures, published on the MCC Web site (the “Governance Guidelines”).

(a) Board of Directors (*Le Comité d’Orientation et de Suivi*).

(i) Composition. Consistent with the Decree and the Governance Guidelines, MCA-Burkina Faso shall be governed by the Board, which shall consist of those voting and non-voting members set forth in the Decree. Any alteration of the composition of the Board shall be subject to MCC approval.

(ii) Roles and Responsibilities. The Board will be responsible for overseeing the implementation of the Program, including making major decisions, such as approving annual implementation plans, disbursement requests, annual progress reports, key contracts, and reporting on policy reforms, as well as other responsibilities defined in the MCA-Burkina Faso Bylaws. The Board will have final decision-making authority over the implementation of the Program. It will meet regularly; the frequency of meetings will be set forth in the MCA-Burkina Faso Bylaws and will be in accordance with the Governance Guidelines. The specific roles of the voting and non-voting members will be set forth in the MCA-Burkina Faso Bylaws.

(b) Management Unit (*L’Unité de Coordination*).

(i) Composition. The Management Unit, which will be led by a competitively selected National Coordinator, also will be composed of competitively recruited Directors with expertise in the key components of the Program, a Legal Counsel, and other key Directors, including Directors of Environmental and Social Assessment, Procurement, Administration and Finance, and Monitoring and Evaluation, together with such other managers and officers as may be agreed by the Government and MCC. The Directors will be supported by

appropriate staff to enable the Management Unit to execute its roles and responsibilities.

(ii) Roles and Responsibilities. The Management Unit will be based in Ouagadougou, Burkina Faso, and will be responsible for managing the day-to-day implementation of the Program with oversight from the Board. It will serve as the principal link between MCC and the Government and will be accountable for the successful execution of the Program, each Project and each Project Activity. As an administrative structure of the Government, MCA-Burkina Faso will be subject to Government audit requirements. As a recipient of MCC Funding, it will also be subject to MCC audit requirements.

### 4. Stakeholders Committee (Le Conseil National)

(a) Composition. The Government has established a strategic Stakeholders Committee, in conformity with the Governance Guidelines, to ensure the continuation of the consultative process throughout the implementation of the Program. The Stakeholders Committee shall consist of up to 28 members (or such other number as may be selected by the Government and approved by MCC), including deputies, mayors, regional government counselors, and representatives from banks in the project intervention zone, the private sector, environmental NGOs, women’s associations, fruits and vegetable exporters, farmers’ associations in the Sourou and Comoé, and religious and customary authorities. The Government also will establish, in the project intervention and project-affected areas, informal stakeholders’ committees whose size and composition will reflect the sectors, activities and concerns of the Program, and include key NGOs, the private sector, civil society, and decentralized regional and local government bodies.

(b) Location. The strategic Stakeholders Committee and the informal stakeholders’ committees will convene where appropriate to ensure maximum participation in providing feedback on Program and Project implementation.

(c) Roles and Responsibilities. The strategic Stakeholders Committee will serve as a feedback and accountability mechanism for MCA-Burkina Faso throughout the Program’s implementation. It will be responsible for continuing the consultative process throughout Program implementation and will consult with the informal stakeholders’ committees on a regular basis or at the request of an informal stakeholders’ committee as set forth in

the MCA-Burkina Faso Bylaws. The informal stakeholders' committees will not have decision-making authority but, at the request of the strategic Stakeholders Committee, will review certain reports, agreements and documents, including implementation documents to the extent appropriate, and provide advice and feedback regarding the Program's implementation.

#### 5. Implementing Entities

(a) Composition. The Government and MCC have identified the principal ministries and public institutions that may or will serve as implementing entities (each, an "*Implementing Entity*"). Such Implementing Entities include, but are not limited to, (i) the AMVS, within the Ministry of Agriculture; (ii) the *Direction Générale des Routes*, within the Ministry of Infrastructure; (iii) the *Direction Générale des Pistes Rurales*, within the Ministry of Infrastructure; (iv) the Road Fund; (v) the Ministry of Environment (*Ministère de l'Environnement et du Cadre de Vie*); and (vi) appropriate *Directions* of the Ministry of Economic and Finance (*Ministère de l'Economie et des Finances*) for the Rural Land Governance Project. MCA-Burkina Faso will enter into agreements with the Implementing Entities that set forth their roles and responsibilities in connection with Program implementation.

(b) Location. The Implementing Entities will be based where appropriate to ensure maximum effectiveness in Program and Project implementation. Additional personnel to be based within the Implementing Entities may be contracted by MCA-Burkina Faso where appropriate.

(c) Roles and Responsibilities. The Implementing Entities will be responsible for the coordination of the Project Activities and of various contractors, the achievement of Project Objectives and timelines, development of Compact-related requirements (work plans, detailed financial plans, and quarterly reports), procurement (where MCC has determined that procurement

tasks may be performed by the Implementing Entity), performance monitoring of contractors and such other Program-related activities as may be agreed by MCA-Burkina Faso and an Implementing Entity with the prior written approval of MCC.

#### 6. Fiscal Agent

Through a competitive process approved by MCC, the Government has appointed a fiscal agent (the "*Fiscal Agent*") to provide fiscal agent services to MCA-Burkina Faso. The Fiscal Agent will provide a broad range of financial management services required by MCA-Burkina Faso to implement the Program, including funds control, disbursement documentation and management, cash management and accounting, as set forth in the Fiscal Agent Agreement. The Government shall take all appropriate actions to ensure that the Fiscal Agent performs these services in accordance with the terms of this Compact, the Program Implementation Agreement, and any other agreement to which the Fiscal Agent is a party and that all accounting in connection with the Program is in accordance with International Accounting Standards (IAS) as contemplated by Section 3.7(b)(i) of the Compact.

#### 7. Procurement Agent

Through a competitive process approved by MCC, the Government has appointed a procurement agent (the "*Procurement Agent*") to provide procurement agent services to MCA-Burkina Faso. The Procurement Agent will administer all Program and administrative procurements, and provide specified procurement appropriate activities required by MCA-Burkina Faso to implement the Program, as set forth in the Procurement Agent Agreement; *provided, however*, that the Procurement Agent shall not be responsible for those procurements administered pursuant to the Administration Agreement. The Government shall take all appropriate actions to ensure that the Procurement Agent performs these services in accordance with the terms of this Compact, the Program Implementation

Agreement, and any other agreement to which the Procurement Agent is a party and in accordance with the MCC Program Procurement Guidelines.

### Annex II Summary of the Multi-Year Financial Plan

#### 1. General

This Annex II to this Compact (the "*Financial Plan Annex*") summarizes the Multi-Year Financial Plan for the Program. Each capitalized term in this Financial Plan Annex shall have the same meaning given such term elsewhere in this Compact. Unless otherwise expressly stated, each Section reference herein is to the relevant Section of the main body of this Compact.

The Multi-Year Financial Plan Summary below sets forth the estimated annual contribution of MCC Funding for Program administration, Program monitoring and evaluation, and implementing each Project. The Government's contribution of resources will consist of in-kind contributions and amounts required effectively to satisfy the requirements of Section 2.6(a) of this Compact. In accordance with the Program Implementation Agreement, the Government will develop and adopt on a quarterly basis a detailed financial plan (as approved by MCC) setting forth annual and quarterly funding requirements for the Program (including administrative costs) and for each Project, projected both on a commitment and cash requirement basis.

#### 2. Modifications

Consistent with Section 6.2(b) of this Compact, to preserve administrative flexibility, the Parties may by written agreement (or as otherwise provided in the Program Implementation Agreement), without amending this Compact, change the designations and allocations of MCC Funding among the Projects, the Project Activities, or any activity under Program administration or monitoring and evaluation, or between a Project identified as of the entry into force of this Compact and a new project.

## MULTI-YEAR FINANCIAL PLAN SUMMARY (US\$)

Project	CIF	Year 1	Year 2	Year 3	Year 4	Year 5	Total
1. Rural Land Governance Project:							
Legal and Procedural Change and Communication .....	144,667	943,916	366,792	240,422	240,422	75,592	2,011,811
Institutional Development and Capacity Building ...	54,667	2,394,586	8,975,304	10,370,277	9,278,614	6,934,211	38,007,659
Site-Specific Land Tenure Interventions .....	906,078	3,871,586	3,654,951	4,992,964	4,560,964	1,928,602	19,915,145
Sub-Total .....	1,105,412	7,210,088	12,997,047	15,603,663	14,080,000	8,938,405	59,934,615
2. Agriculture Development Project:							
Water Management and Irrigation .....	3,838,844	6,761,835	26,576,645	34,497,680	15,805,924	3,957,941	91,438,869
Diversified Agriculture .....	932,758	8,349,515	11,599,192	6,685,782	6,936,923	2,001,462	36,505,632
Access to Rural Finance .....	-	2,798,084	2,773,453	2,845,349	2,539,336	3,009,336	13,965,558
Sub-Total .....	4,771,602	17,909,434	40,949,290	44,028,811	25,282,183	8,968,739	141,910,059
3. Roads Project:							
Development of Primary Roads ..	300,756	1,516,858	28,241,321	69,106,730	42,638,082	422,561	142,226,308
Development of Rural Roads .....	37,227	74,452	4,268,032	7,665,973	5,499,910	58,779	17,604,373
Capacity Building and Technical Assistance for Road Maintenance .....	-	1,460,000	460,000	460,000	460,000	460,000	3,300,000
Incentive Matching Fund for Periodic Road Maintenance (IMFP) ....	-	-	-	16,000,000	10,000,000	5,000,000	31,000,000
Sub-Total .....	337,983	3,051,310	32,969,353	93,232,703	58,597,992	5,941,340	194,130,681
4. BRIGHT 2 Schools Project:							
BRIGHT 2 Schools Activity .....	3,000,000	25,829,669	-	-	-	-	28,829,669
Sub-Total .....	3,000,000	25,829,669	-	-	-	-	28,829,669
5. Monitoring & Evaluation (M&E):							
Monitoring & Evaluation .....	450,000	1,720,000	1,210,000	1,460,000	1,360,000	1,680,000	7,880,000
Sub-Total .....	450,000	1,720,000	1,210,000	1,460,000	1,360,000	1,680,000	7,880,000
6. Program Administration & Oversight:							
MCA-Burkina Faso Program Administration .....	5,827,998	5,122,627	5,337,718	6,035,248	5,615,847	5,549,637	33,489,075
Fiscal Agent / Procurement Agent .....	608,070	2,432,280	2,432,280	2,432,280	2,432,280	2,432,280	12,769,470
Audit .....	-	400,000	400,000	400,000	400,000	400,000	2,000,000
Sub-Total .....	6,436,068	7,954,907	8,169,998	8,867,528	8,448,127	8,381,917	48,258,545
Total Estimated MCC Contribution	16,101,065	63,675,408	96,295,688	163,192,705	107,768,302	33,910,401	480,943,569



### Annex III Description of Monitoring and Evaluation Plan

This Annex III (the “*M&E Annex*”) generally describes the components of the Monitoring and Evaluation Plan (“*M&E Plan*”) for the Program.

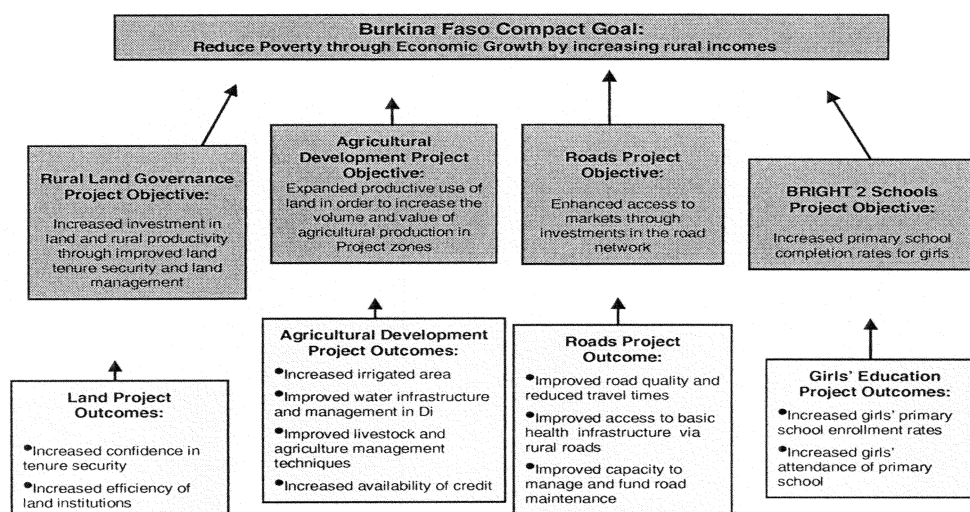
#### 1. Overview

MCC and the Government (or a mutually acceptable Government affiliate) will formulate, agree to and the Government will implement, or cause to be implemented, an M&E Plan that specifies (a) how progress toward the Program goal and objectives will be

monitored, (“*Monitoring Component*”), (b) process and timeline for the monitoring of planned, ongoing, or completed project activities to determine their efficiency and effectiveness, and (c) a methodology for assessment and rigorous evaluation of the outcomes and impact of the Program (“*Evaluation Component*”). Information regarding the Program’s performance, including the M&E Plan, and any amendments or modifications thereto, as well as progress and other reports, will be made publicly available on the Web site of MCA-Burkina Faso and elsewhere.

#### 2. Program Logic

The M&E Plan will be built on a logic model which illustrates how the Program, Projects and Project activities contribute to poverty reduction and economic growth in Burkina Faso. The logic model below provides a visual representation of each Project’s activities and the channels through which the activities lead to higher level outcomes and objectives. In sum, the goal of the Program is to contribute to rural economic growth and poverty reduction among targeted beneficiaries.



#### 3. Monitoring Component

To monitor progress toward the achievement of the impact and outcomes, the Monitoring Component of the M&E Plan will identify (a) the indicators, (b) the definitions of the indicators, (c) the sources and methods for data collection, (d) the frequency for data collection, (e) the party or parties responsible, and (f) the timeline for reporting on each indicator to MCC.

(a) Indicators. The M&E Plan will measure the results of the Program using quantitative, objective and reliable data (“*Indicators*”). Each indicator will have benchmarks that specify the expected value and the expected time by which that result will be achieved (“*Target*”). The M&E Plan will be based on a logical framework approach that classifies indicators as goal, objective, outcome, and output. The Compact Goal indicators (“*Goal Indicators*”) will

measure the poverty reduction goal for each Project. Second, the Objective Indicator (“*Project Objective Indicators*”) will measure the final result of each Project. Third, Outcome and Output Indicators (“*Project Outcome Indicators*”) will measure the early and intermediate results of the Project activities. For each Project Outcome Indicator, for each Project Objective Indicator, and Goal Indicator, the M&E Plan will define a strategy for obtaining and verifying the value of such indicator prior to undertaking any activity that affects the value of such Indicator (such value, a “*Baseline*”). All indicators will be disaggregated by gender, income level and age, and beneficiary types to the extent practicable. Subject to prior written approval from MCC, MCA-Burkina Faso may add indicators or refine the definitions and Targets of existing indicators.

(i) Goal and Project Objectives. The M&E Plan will contain the Goal and Objective Indicators listed in the table below specifying the definition, unit of measurement, baseline, and end of Compact Target for each.

(ii) Project Outcome Indicators. The M&E Plan will contain Project Outcome Indicators which will measure the results for the 4 main Projects and are listed below with their definitions, units of observation, baseline and end of Compact Target. Prior to the disbursement of MCC Funding for any Project activity, the Implementing Entity of that Project activity must propose a final set of Activity Indicators that is approved in writing by its Project Manager, MCA-Burkina Faso and MCC. The M&E Plan will be amended to reflect the addition of such indicators.

Overall goal: reduce poverty through economic growth by increasing rural incomes	Unit of measurement	Baseline value	Year 5 target
Increased income resulting from primary roads rehabilitation .....	US\$/year .....	0	US\$12,777,574.

Overall goal: reduce poverty through economic growth by increasing rural incomes	Unit of measurement	Baseline value	Year 5 target
Increased income resulting from irrigation and agricultural investments .....	US\$/year .....	0	US\$2,750,000.

Rural land governance project	Indicator	Definition	Unit of measurement	Baseline value	Year 5 target
<b>Rural Land Governance Project</b>					
Project Objective: Increase investment in land and rural productivity through improved land tenure security and land management.	Trend in incidence of conflicts over land rights.	Annual rate of increase of conflicts over land rights. <sup>1</sup>	Percent .....	TBD *	Annual rate of increase in land disputes in Project areas falls by 25% (from the baseline rate of increase).
	Conflicts resolved .....	Proportion of all reported land conflicts resolved by prefectures and <i>Comités Villageois de Développement</i> ("CVDs"). <sup>2</sup>	Percent Prefectures. CVDs .....	TBD * TBD *	50. 60.
	"Chartes Foncières" (Social pacts) completed per the new land law.	Number of new social pacts (commune-level land use and land management norms and procedures) completed.	Number .....	0 .....	47.
	Communal land use plans completed.	Number of new communal land use plans (maps) completed.	Number .....	0 .....	47.
	Land planning and registration.	Total targeted hectares or parcels registered at the "Division Fiscale" (deconcentrated tax office).	Hectares ..... Hectares .....	Existing agricultural development zones. <sup>3</sup> New zones (targeted under the Agriculture Development Project).	10,000. 2037.
Increased confidence in land tenure.	Extent of confidence in land tenure security.	Percent of survey respondents perceiving their land as secure.	Parcels ..... Percent .....	Ganzourgou pilot ..... TBD *	14,500 parcels. To 50 percent.
	Extent of confidence in land conflict resolution.	Percent of survey respondents perceiving confidence in conflict resolution mechanisms.	Percent .....	TBD *	To 50 percent.
Increased efficiency of land institutions.	Average time required to obtain a title to land in rural areas.	Number of days required to obtain a land title in rural areas.	Days .....	TBD *	TBD.**
	Average cost required to register property.	Cost required to register land as property in rural areas.	US\$ .....	TBD *	TBD.**

Agriculture development project	Indicator	Definition	Unit of measurement	Baseline value	Year 5 target
<b>Agriculture Development Project</b>					
Project Objective: To expand productive use of land in order to increase the volume and value of agricultural production in the Project zones.	Volume of production of selected products in the Sourou valley <sup>4</sup>	Total volume of key agricultural production in the perimeters in the dry season and rainy season.			
	Rainfed .....	.....	Tons .....	15,571	20,000
	Irrigated <sup>5</sup> .....	.....	Tons .....	56,485	113,000
	Dry-season productivity in the Sourou valley.	Average yield of selected crops .....	Tons/ha .....	15	25
	Onion on newly irrigated perimeters	Average yield of selected crops .....	Tons/ha .....	10	25
	Tomato and potato on newly irrigated perimeters.	Average yield of selected crops .....	Tons/ha .....	4	6
	Rice on newly irrigated perimeters ..	Average yield of selected crops .....	Tons/ha .....		
Outcomes	Indicator	Definition	Unit of measurement	Baseline value	Year 5 target

<b>Agriculture Development Project</b>					
Increased irrigated area .....	New area under irrigation .....	Total new irrigated area productively exploited in the Sourou valley (hectares).	Hectares .....	3,818	<sup>6</sup> 5,855
Improved water infrastructure and management in the Di perimeter.	Overall conveyance efficiency .....	Ratio of volume of water delivered to a field as a fraction of volume taken from the Sourou river.	Percent .....	N/A	75
	Water use efficiency .....	Ratio of the volume of crop water required to the volume of water delivered to the field.	Percent .....	N/A	70

Outcomes	Indicator	Definition	Unit of measurement	Baseline value	Year 5 target
Improved livestock management techniques.	Water fee recovery rate .....	Percent of annual targeted water fees collected from beneficiaries in new perimeters.	Percent .....	N/A	100
	Bovine weight gain . <sup>7</sup>	Average bovine weight gain/head/ year in participating herds.	Kg/head/year .....	39	70
	Vaccine coverage against the contagious bovine péripneumonia.	Percent of bovines vaccinated against the bovine péripneumonia in participating herds.	Percent .....	29	65
Increased availability of credit in project areas.	Loan provision by the rural finance facility.	Total number of loans provided by the rural finance facility.	Number .....	0	1,000

Roads project	Indicator	Definition	Unit of measurement	Baseline value	Year 5 target
<b>Roads Project</b>					
Project Objective: Enhance access to markets through investments in the road network.	Average Annual Daily Traffic .....	Traffic Counts (numbers of vehicles).	Number.		
	Segment 1.				
	Sabou—Koudougou .....			148 .....	230.
	Koudougou—Perkoa .....			212 .....	330.
	Perkoa—Didyr .....			164 .....	195. <sup>8</sup>
	Segment 2.				
	Dedougou—Nouna .....			203 .....	330.
	Nouna—Bombrukuy .....			118 .....	190.
	Bombrukuy—Frt. Mali .....			62 .....	110.
	Segment 3.				
	Banfora—Sindou .....			126 .....	215.
	Volume of goods transported .....	Volume of products transported to and from the production zones.	Tons .....	TBD <sup>9</sup> .....	Doubling

Outcomes	Indicator	Definition	Unit of measurement	Baseline value	Year 5 target
<b>Roads Project</b>					
Improved road quality and reduced travel times.	International Roughness Index .....	Degree of road roughness .....	Number .....	12–22 for relevant roads.	3.5.
Improved access to basic health infrastructure via rural roads. Improved capacity to manage and fund road maintenance.	Access time (in minutes) to the closest market on paved roads.	Accessibility to the markets .....	Minutes .....	TBD <sup>10</sup> .....	Reduced by half.
	Visits to basic health center infrastructure.	Percent of population visiting health centers (annual).	Percent .....	34.08 <sup>11</sup> .....	46.10.
	Road Maintenance coverage .....	Percent of required <i>routine</i> maintenance completed. Percent of required <i>periodic</i> maintenance completed.	Percent .....	100 .....	100.
				TBD .....	TBD. <sup>12</sup>

BRIGHT 2 schools project	Indicator	Definition	Unit of measurement	Baseline value	Year 5 target
<b>BRIGHT 2 Schools Project</b>					
Project Objective: Increase primary school completion rates for girls.	National girls' primary education completion.	The number of female students that have successfully completed their last year of primary school, minus the number of repeaters in that grade, divided by the total number of female children of official graduation age.	Percent .....	26.20	60

<b>Outcomes</b>					
Improve access to basic education for girls. Improve quality of basic education for girls.	Girls' enrollment rate in BRIGHT schools.	The number of girls enrolled in BRIGHT schools.	Number .....	0	9,900
	Girls' attendance rates at BRIGHT schools. (disaggregated by school and by grade).	Percent of girls who attend BRIGHT school 90% of the time. (Numerator: girls who regularly attend BRIGHT schools). (Denominator: Total number of girls enrolled in BRIGHT schools) ×100.	Percent .....	0	97
	Girls' promotion rates at BRIGHT schools (disaggregated by school and by grade).	The percentage of girls enrolled in one grade that continue to be enrolled in the following grade in a BRIGHT school.	Percent .....	0	90

<sup>1</sup> Targeted Project areas will be compared to non-Project areas.

\*Baseline data collection will be conducted during the CIF period.

<sup>2</sup> This will be disaggregated between conflicts resolved and conflicts reported.

<sup>3</sup> Existing Zones: (a) irrigated zones: Vallée du Kou, Banzon, Savili, Lac Bam, Sourou, Comoé; (b) pastoral zones: Nouaho and Sondré Est.

\*\*Target will be set as result of baseline.

<sup>4</sup> Rainy season products: rice, corn, banana, papaya; Dry season products: rice, corn, wheat, banana, papaya, onion, watermelon, green bean, potato and tomato.

<sup>5</sup> This will be disaggregated between old and new perimeters.

<sup>6</sup>2,037 additional hectares in Di.

<sup>7</sup>These two livestock indicator baselines are national estimates, which will be updated when participating herds are identified.

<sup>8</sup>The traffic growth target for the Perkoa—Didyr segment includes annual normal traffic growth only and does not include generated traffic growth that would be added if this road segment were to be extended.

<sup>9</sup>Baseline data collection will be conducted in the roads design studies.

<sup>10</sup>Baseline data collection will be conducted in the roads design studies.

<sup>11</sup>This baseline represents the national value.

<sup>12</sup>To be determined based upon results of technical assistance studies.

(b) Data Collection and Reporting. The M&E Plan will establish guidelines for data collection and a reporting framework, including a schedule of MCC's Program reporting requirements and an identification of responsible parties. Compliance with data collection and reporting timelines will be conditions for disbursements for the relevant Project activities as set forth in the Program Implementation Agreement. The M&E Plan will specify the data collection methodologies, procedures, and analysis required for reporting on results at all levels. The M&E Plan will also describe any interim MCC approvals for data collection, analysis, and reporting plans.

(c) Data Quality Reviews. As determined in the M&E Plan or as otherwise requested by MCC, the quality of the data gathered through the M&E Plan will be reviewed to ensure that data reported are as valid, reliable, and timely as resources will allow. The objective of any data quality review will be to verify the quality and the consistency of performance data, across different implementation units and reporting institutions. Such data quality reviews also will serve to identify where those levels of quality are not possible, given the realities of data collection.

(d) Management Information System. The M&E Plan will describe the information system that will be used to collect data, store, process and deliver information to relevant stakeholders in such a way that the Program information collected and verified pursuant to the M&E Plan is at all times accessible and useful to those who wish to use it. The system development will take into consideration the requirements and data needs of the components of the Program, and will be aligned with MCC existing systems, other service providers, and government ministries.

(e) Role of MCA-Burkina Faso. The monitoring and evaluation of this Compact spans across 4 discrete Projects and will involve a variety of governmental, non-governmental, and private sector institutions. Except for that portion of the M&E Plan to be implemented pursuant to the Administration Agreement (relating to the BRIGHT 2 Schools Project), MCA-Burkina Faso holds full responsibility for implementation of the M&E Plan, and MCA-Burkina Faso will oversee all

Compact-related monitoring and evaluation activities conducted by each of the Projects, ensuring that data from all implementing entities is consistent, and accurately reported and aggregated into regular Compact performance reports as described in the M&E Plan.

#### 4. Evaluation Component

The Evaluation Component of the M&E Plan will contain two types of evaluations: Impact Evaluations, and Project Performance Evaluations. Plans for each type of evaluation will be finalized before MCC Disbursement for specific Program or Project activities. The Evaluation Component of the M&E Plan will describe the purpose of the evaluation, methodology, timeline, required MCC approvals, as well as the process for collection and analysis of data for each evaluation. The results of all evaluations will be made publicly available in accordance with MCC's Monitoring & Evaluation Guidelines ("M&E Guidelines").

(a) Impact Evaluation. The M&E Plan will include a description of the methods to be used for impact evaluations and plans for integrating the evaluation method into project design. Based on in-country consultation with stakeholders, the following activities outlined below were determined as having the strongest potential for rigorous impact evaluation. The M&E Plan will further outline in detail these methodologies. Final impact evaluation strategies are to be jointly determined before the approval of the M&E Plan and before entry into force of this Compact. The following are a summary of the potential impact evaluations:

(i) Rural Land Governance Project. A difference in difference evaluation will be used to make project scaling decisions. Surveys will be conducted in project and control communes on perceptions of conflict, before and after implementation of the project's pilot phase. In the event that randomized roll-out of some commune-level interventions is possible, their impact could be tested over time. An evaluation may also test spillover of impacts between communes targeted under the project and neighboring communes.

(ii) Agriculture Development Project. Randomized type and level of extension/training support to various groups, and testing spillover effects

beyond the directly targeted beneficiaries. Evaluations will test impacts of combined and isolated interventions, as some producers will be receiving credit and/or irrigation as well as the technical assistance support.

(iii) Roads Project. An evaluation will be conducted to test whether the improved roads lead to greater and easier access to markets for goods and services (both sale and purchase), and whether road rehabilitation is associated with an increase in incomes for road users and/or communities surrounding rehabilitated roads, in each case pursuant to a methodology approved by MCC.

(iv) BRIGHT 2 Schools Project. A continuation of the current BRIGHT impact evaluation, using a regression discontinuity methodology to measure the program's effects on the school enrollment, attendance and performance of children.

#### 5. Other Components of the M&E Plan

In addition to the Monitoring and Evaluation Components, the M&E Plan will include the following components for the Program, Projects and Project Activities, including, where appropriate, roles and responsibilities of the relevant parties and providers:

(a) Costs. A detailed cost estimate for all components of the M&E Plan.

(b) Assumptions and Risks. Any assumptions and risks external to the Program that underlie the accomplishment of the Project Objectives and Project Activity Outcomes. However, such assumptions and risks will not excuse Parties' performance unless otherwise expressly agreed to in writing by all Parties.

#### 6. Implementation of the M&E Plan

(a) Approval and Implementation. The approval and implementation of the M&E Plan, as amended from time to time, will be in accordance with this M&E Annex, Program Implementation Agreement, and any other relevant supplemental agreement.

### Annex IV Conditions to CIF Disbursements

#### 1. Applicability

The satisfaction of the conditions precedent set forth in this Annex IV, in form and substance satisfactory to MCC, shall be conditions to Disbursements of

Compact Implementation Funding, *provided* that the following conditions precedent shall not apply to CIF Disbursements made or to be made pursuant to the Administration Agreement.

## 2. Conditions to Initial CIF Disbursement

(a) Delivery of an Interim Fiscal Accountability Plan acceptable to MCC.

(b) Delivery of a CIF Procurement Plan acceptable to MCC.

## 3. Conditions to All CIF Disbursements (Including Initial CIF Disbursement)

(a) Delivery of a complete, correct and fully executed CIF Disbursement request for the relevant CIF Disbursement period.

(b) MCC is satisfied, in its sole discretion, that (i) the activity being funded by such CIF Disbursement is necessary, advisable or is otherwise consistent with the goal of facilitating the implementation of the Compact, (ii) there has been no violation of, and the use of requested funds for purposes requested will not violate, the limitations on use or treatment of Compact Implementation Funding, and (iii) the Government will have substantially complied with its obligations as set forth in the Compact.

(c) Each of the Fiscal Agent Agreement, the Procurement Agent Agreement, and the applicable Bank Agreement is in full force and effect without modification, alteration, rescission or suspension of any kind, unless otherwise agreed by MCC, and no material default has occurred or is continuing thereunder.

(d) Prior to any CIF Disbursement for a procurement, MCA-Burkina Faso will have established a bid challenge system acceptable to MCC; *provided*, that, this condition shall be deemed satisfied if MCA-Burkina Faso has adopted the interim bid challenge system set forth in the MCC Program Procurement Guidance on the Bid Challenge System available at <http://www.mcc.gov/documents/mcc-ppg-bidchallengesystem.pdf>.

(e) Prior to any CIF Disbursement related to the preparation of EIAs, EAs or RAPs, MCA-Burkina Faso shall ensure each of a resettlement specialist and a project management specialist has been selected and remains engaged with expertise and scope of responsibility satisfactory to MCC.

(f) MCA-Burkina Faso shall ensure that each of its key officers, including, without limitation, its Environmental and Social Impact (ESI) director, has

been selected and remains engaged, or is actively being recruited.

[FR Doc. E8-16755 Filed 7-21-08; 8:45 am]

BILLING CODE 9211-03-P

## NATIONAL SCIENCE FOUNDATION

### Privacy Act of 1974; System of Records

**AGENCY:** Office of the General Counsel, National Science Foundation.

**ACTION:** Notice of a new Privacy Act System of Records NSF-74: National Science Foundation Child Care Subsidy Program.

*System Name:* National Science Foundation Child Care Subsidy Program.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the National Science Foundation (NSF) gives notice of a new Privacy Act system of records: National Science Foundation Child Care Subsidy Program. This program was created as the result of Public Law 107-67, Section 630, which allows executive agencies to use appropriated funds to provide child care services for Federal civilian employees. The purpose of the records maintained in this system is to establish and verify NSF employee eligibility for child care subsidies to provide monetary assistance to them.

**DATES:** *Effective Date:* This action shall be effective without further notice on August 21, 2008, unless comments are received during or before this period that would result in a contrary determination.

*Comments Due Date:* Submit comments on or before August 21, 2008.

**ADDRESSES:** Address all comments concerning this notice to Leslie Jensen, National Science Foundation, Office of the General Counsel, Room 1265, 4201 Wilson Boulevard, Arlington, Virginia 22230 or by sending electronic mail (e-mail) to [ljensen@nsf.gov](mailto:ljensen@nsf.gov).

**SUPPLEMENTARY INFORMATION:** This publication is in accordance with the Privacy Act requirement that agencies publish a new system of records in the **Federal Register**.

Submit comments as an ASCII file avoiding the use of special characters and any form of encryption. Identify all comments sent in electronic E-mail with Subject Line: Comments on new system.

**FOR FURTHER INFORMATION CONTACT:** Leslie Jensen (703) 292-5065.

Dated: July 15, 2008.

**Lawrence Rudolph,**  
*General Counsel.*

## National Science Foundation

### SYSTEM NAME:

National Science Foundation Child Care Subsidy Program (NSF-74).

### SYSTEM LOCATION:

National Science Foundation, Division of Human Resources, 4201 Wilson Boulevard, Arlington, VA 22230; and in the offices of the contract employees engaged to administer the subsidy programs.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Current employees of the National Science Foundation who voluntarily apply for a child care subsidy, their spouses, and children who are enrolled in a licensed Federal or non-Federal center, or licensed home-based care.

(2) Child-care providers of these employees.

### CATEGORIES OF RECORDS IN THE SYSTEM:

The information collected will include the employee's name, spouse's name, employee's title, grade, home and work telephone numbers, home and work addresses, the organization in which the employee works, the employee's social security number, the spouse's social security number, the employee's tax returns, the spouse's tax returns, the name and social security number of the child on whose behalf the parent is applying for a subsidy, the child's date of birth, the date of entry into the Child Care Subsidy Program, and the amount of subsidy received; the name, address, telephone number, employer identification number (EIN), license and accreditation status of the child care center in which the employee's child(ren) is (are) enrolled, and the dates of attendance.

### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and Executive Order 12656 of Nov. 18, 1988, on Assignment of Emergency Preparedness Responsibilities.

### PURPOSE OF THE SYSTEM:

The primary use of the records maintained in this system is to establish and verify the National Science Foundation employee's eligibility for child care subsidies in order to provide monetary assistance to them. Other uses of the records in the system include verifying the eligibility of child care provider and verifying compliance with regulations.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

1. Information from the system may be disclosed to a Federal government authority for the purpose of coordinating and reviewing employee eligibility for the child care subsidy.

2. Information from the system may be disclosed to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

3. Information from the system may be disclosed to contractors, grantees, volunteers, experts, advisors, and other individuals who perform a service to or work on or under a contract, grant, cooperative agreement, advisory committee, committee of visitors, or other arrangement with or for the Federal government, as necessary to carry out their duties in pursuit of the purposes described above. The contractors are subject to the provisions of the Privacy Act.

4. Information from the system may be merged with other computer files in order to carry out statistical studies or otherwise assist NSF with program management, evaluation, and reporting. Disclosure may be made for this purpose to NSF contractors and collaborating researchers, other Government agencies, and qualified research institutions and their staffs. Disclosures are made only after scrutiny of research protocols and with appropriate controls. The results of such studies are statistical in nature and do not identify individuals.

5. Information from the system may be disclosed to the Department of Justice or the Office of Management and Budget for the purpose of obtaining advice on the application of the Freedom of Information Act or Privacy Act to the records.

6. Information from the system may be disclosed to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.

7. Information from the system may be disclosed to the Department of Justice, to the extent disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation, in which one of the following is a party or has an interest: (a) NSF or any of its components; (b) an NSF employee in his/her official capacity; (c) an NSF employee in his/her individual capacity when the Department of Justice is

representing or considering representing the employee; or (d) the United States, when NSF determines that litigation is likely to affect the Agency.

8. Information from the system may be disclosed to representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

9. Information from the system may be disclosed to appropriate agencies, entities, and persons when (1) the NSF suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the NSF has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the NSF or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the NSF's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Records are stored in paper and/or electronic format.

**RETRIEVABILITY:**

Records are retrieved by the name and social security number of employees applying for child care subsidies.

**SAFEGUARDS:**

Access to records in the system is limited to authorized personnel whose official duties require such access. Paper records are maintained in locked metal file cabinets and/or in secured rooms. Electronic records are password-protected.

**RETENTION AND DISPOSAL:**

These records will be maintained permanently until their official retention period is established.

**SYSTEM MANAGER(S) AND ADDRESS:**

Branch Chief, Employee Relations, Division of Human Resources, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230

**NOTIFICATION PROCEDURES:**

Requests to determine whether this system contains a record pertaining to the requesting individual should be sent to the Privacy Act Officer, Office of General Counsel, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

**RECORD ACCESS PROCEDURES:**

A request for access to records contained in the system should be addressed to the Privacy Act Officer, Office of General Counsel, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

**CONTESTING RECORDS PROCEDURES:**

See Record Access Procedures above.

**RECORD SOURCE CATEGORIES:**

Applications for child care subsidies and supporting records, which are voluntarily submitted by NSF employees applying for child care subsidies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. E8-16683 Filed 7-21-08; 8:45 am]

BILLING CODE 7555-01-P

**NUCLEAR REGULATORY COMMISSION****Draft Regulatory Guide: Issuance, Availability**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Issuance and Availability of Draft Regulatory Guide (DG)-1149.

**FOR FURTHER INFORMATION CONTACT:**

Satish Aggarwal, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6005 or to e-mail [Satish.Aggarwal@nrc.gov](mailto:Satish.Aggarwal@nrc.gov).

**SUPPLEMENTARY INFORMATION:****I. Introduction**

The U.S. Nuclear Regulatory Commission (NRC) has issued for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled, "Qualification of Safety-Related Motor

Centers for Nuclear Power Plants,” is temporarily identified by its task number, DG-1149, which should be mentioned in all related correspondence.

This regulatory guide describes a method that the staff of the NRC deems acceptable for complying with the Commission’s regulations for the qualification of safety-related motor control centers for nuclear power plants.

IEEE Std. 649-2006, “IEEE Standard for Qualifying Class 1E Motor Control Centers for Nuclear Power Generating Stations,” published on December 29, 2006, was developed by the Working Group on Motor Control Centers (SC 2.14) of the Nuclear Power Engineering Committee of the Institute of Electrical and Electronics Engineers (IEEE) and was approved by the IEEE-SA Standards Board on September 15, 2006. The standard provides basic principles, requirements, and methods for qualifying safety-related motor control centers for both harsh and mild environment applications in nuclear power plants. The demonstration that an installed motor control center will meet its design specification requires many steps: A program of quality assurance, design, qualification, production quality control, installation, maintenance, periodic testing, and surveillance. However, the scope of IEEE Std. 649-2006 is limited to qualification.

The purpose of qualification is to provide assurance that the motor control center is capable of performing its required safety functions with no failure mechanisms that could lead to common mode failures under the postulated conditions specified in the equipment specification.

Clause 9.5 of IEEE Std 649-2006 references IEEE Std 344-2004, “Recommended Practice for Seismic Qualification of Class 1E Equipment for Nuclear Power Generating Stations,” and provides additional guidance for seismic qualification of motor control centers. The vast majority of seismic qualification tests on motor control centers were performed with input frequencies up to only 33 Hz. Attempts to utilize such past test experience data for seismic qualification of motor control centers is not considered appropriate. Recent studies related to the early site permit applications at certain east coast hard rock-based plants indicated that the site-specific spectra may exceed the certified design spectra of new proposed plants in the very high frequency range (from 20 Hz up to 100 Hz). Plants located in the Central and Eastern United States on hard-rock should evaluate whether motor control

center’s components (such as digital components) could be affected by the high frequency earthquake ground motion.

These objectives should be accomplished using qualification methods (type testing, operating experience, analysis as a supplement to type testing and operating experience, ongoing qualification, or any combination thereof). However, the preferred method of qualification is type testing.

## II. Further Information

The NRC staff is soliciting comments on DG-1149. Comments may be accompanied by relevant information or supporting data, and should mention DG-1149 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC’s Agencywide Documents Access and Management System (ADAMS). Personal information will not be removed from your comments. You may submit comments by any of the following methods:

1. *Mail comments to:* Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

2. *E-mail comments to:* [NRCREP@nrc.gov](mailto:NRCREP@nrc.gov).

3. *Hand-deliver comments to:* Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

4. *Fax comments to:* Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415-5144.

Requests for technical information about DG-1149 may be directed to the NRC Senior Program Manager, Satish Aggarwal at (301) 415-6005 or e-mail to [Satish.Aggarwal@nrc.gov](mailto:Satish.Aggarwal@nrc.gov).

Comments would be most helpful if received by September 19, 2008. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG-1149 are available through the NRC’s public Web site under Draft Regulatory Guides in the “Regulatory Guides” collection of

the NRC’s Electronic Reading Room at <http://www.nrc.gov/reading-rm/doc-collections/>. Electronic copies are also available in ADAMS (<http://www.nrc.gov/reading-rm/adams.html>), under Accession No. ML072760149.

In addition, regulatory guides are available for inspection at the NRC’s Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR’s mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4209, by fax at (301) 415-3548, and by e-mail to [PDR@nrc.gov](mailto:PDR@nrc.gov).

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 16th day of July, 2008.

For the Nuclear Regulatory Commission.

**Harriet Karagiannis,**

*Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. E8-16729 Filed 7-21-08; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-282 and 50-306]

### **Nuclear Management Company, LLC.; Prairie Island Nuclear Generating Plant, Units 1 and 2; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process**

Nuclear Management Company, LLC. (NMC) has submitted an application for renewal of Facility Operating Licenses No. DPR-42 and DPR-60 for an additional 20 years of operation at the Prairie Island Nuclear Generating Plant, Units 1 and 2 (PINGP). PINGP is located in the city of Red Wing, Minnesota, on the west bank of the Mississippi River.

The operating licenses for PINGP, Units 1 and 2, expire on August 9, 2013, and October 29, 2014, respectively. The application for renewal, dated April 11, 2008, and supplemented by letter dated May 16, 2008, was submitted pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Part 54. A notice of receipt and availability of the application, which included the environmental report (ER), was published in the **Federal Register** on May 6, 2008 (73 FR 25034), as corrected on May 27, 2008 (73 FR 30423). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on June 17, 2008 (73

FR 34335). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement (EIS) related to the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process, which is described in 10 CFR 51.29. In addition, as outlined in 36 CFR 800.8, "Coordination with the National Environmental Policy Act," the NRC plans to coordinate compliance with Section 106 of the National Historic Preservation Act in meeting the requirements of the National Environmental Policy Act of 1969 (NEPA).

In accordance with 10 CFR 51.53(c) and 10 CFR 54.23, NMC submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR Part 51 and is publicly available at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, or from the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible at <http://adamswebsearch.nrc.gov/dologin.htm>. The Accession Numbers for the ER are ML081130677, ML081130681, and ML081130684. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail at [pdr@nrc.gov](mailto:pdr@nrc.gov). The ER may also be viewed on the Internet at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications/prairie-island.html>. In addition, the ER is available for public inspection near PINGP at the Red Wing Public Library, 225 East Ave, Red Wing, MN 55066.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's "Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants," (NUREG-1437) related to the review of the application for renewal of the PINGP operating licenses for an additional 20 years. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. The NRC is required by 10 CFR 51.95 to prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with NEPA and the NRC's regulations found in 10 CFR Part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in the scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will follow 10 CFR 51.29 and will be used to:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other EISs that are being or will be prepared that are related to, but are not part of, the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, and include any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

a. The applicant, Nuclear Management Company, LLC.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who has petitioned or intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a

proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold public meetings for the PINGP license renewal supplement to the GEIS. The scoping meetings will be held at the Red Wing Public Library, 225 East Ave., Red Wing, MN 55066, on Wednesday, July 30, 2008. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m., as necessary. The second session will convene at 7 p.m. with a repeat of the overview portions of the meeting and will continue until 10 p.m., as necessary. Both meetings will be transcribed and will include: (1) An overview by the NRC staff of the NEPA environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; and (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No formal comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may register to attend or present oral comments at the meetings on the scope of the NEPA review by contacting the NRC Project Manager, Mr. Richard Plasse, by telephone at 1-301-415-1427, or by e-mail to the NRC at [richard.plasse@nrc.gov](mailto:richard.plasse@nrc.gov) no later than July 24, 2008. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. Mr. Plasse will need to be contacted no later than July 24, 2008, if special equipment or accommodations are needed to attend or present information at the public meeting, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scope of the PINGP license renewal review to: Chief, Rulemaking, Directives



and Editing Branch, Division of Administrative Services, Office of Administration, Mailstop T-6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Comments may also be delivered to the NRC, Room T-6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852, from 7:30 a.m. to 4:15 p.m. during Federal workdays. To be considered in the scoping process, written comments should be postmarked by September 22, 2008. Electronic comments may be sent by e-mail to the NRC at [PrairieIslandEIS@nrc.gov](mailto:PrairieIslandEIS@nrc.gov), and should be sent no later than September 22, 2008, to be considered in the scoping process. Comments will be available electronically and accessible through ADAMS at <http://adamswebsearch.nrc.gov/dologin.htm>.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Notice of opportunity for a hearing regarding the renewal application was the subject of the aforementioned **Federal Register** notice (73 FR 34335). Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection in ADAMS at <http://adamswebsearch.nrc.gov/dologin.htm>. The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and separate public meetings. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public inspection.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Mr. Plasse at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 15th day of July 2008.

For the Nuclear Regulatory Commission.  
**Rani Franovich,**  
*Branch Chief, Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.*  
 [FR Doc. E8-16731 Filed 7-21-08; 8:45 am]  
**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on ESBWR; Notice of Meeting

The ACRS Subcommittee on the Economic Simplified Boiling Water Reactor (ESBWR) will hold a meeting on August 21-22, 2008, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance, with the exception of a portion that may be closed to protect information that is proprietary to General Electric-Hitachi (GEH) Nuclear Energy and its contractors pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Thursday, August 21, 2008—8:30 a.m.—5 p.m.

Friday, August 22, 2008—8:30 a.m.—5 p.m.

The Subcommittee will review the probabilistic risk analysis supporting the Safety Evaluation Report with Open Items associated with the ESBWR Design Certification Application. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, GEH, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Dr. Harold J. Vandermolen (telephone: 301-415-6236), five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 26, 2007 (72 FR 54695).

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 8:30 a.m. and 5 p.m. (ET). Persons planning to attend this meeting are

urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: July 14, 2008.

**Cayetano Santos,**  
*Chief, Reactor Safety Branch A, Advisory Committee on Reactor Safeguards.*  
 [FR Doc. E8-16728 Filed 7-21-08; 8:45 am]  
**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### Sunshine Federal Register Notice

**AGENCY HOLDING THE MEETINGS:** Nuclear Regulatory Commission.

**DATES:** Weeks of July 21, 28, August 4, 11, 18, 25, 2008.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of July 21, 2008.**

*Wednesday, July 23, 2008*

1:25 p.m. Affirmation Session (Public Meeting) (Tentative). a. U.S. Department of Energy (High Level Waste Repository)—Petitions of the State of Nevada and Dr. Jacob Paz to Reject the Department of Energy's (DOE) Application to Construct a Geologic Repository at Yucca Mountain, Nevada (Tentative). b. Progress Energy Carolinas Inc. (Shearon Harris Nuclear Power Plant, Units 2 and 3)—Motion by the North Carolina Waste Awareness and Reduction Network (NC WARN) to Immediately Suspend the Hearing Notice and Request for Expedited Consideration (Tentative).

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1 & 3).

*Thursday, July 24, 2008*

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1 & 3).

**Week of July 28, 2008—Tentative**

*Wednesday, July 30, 2008*

1:30 p.m. Discussion of Management Issues (Closed—Ex. 2).

**Week of August 4, 2008—Tentative**

There are no meetings scheduled for the week of August 4, 2008.

**Week of August 11, 2008—Tentative**

*Tuesday, August 12, 2008*

1:30 p.m. Meeting with FEMA and State and Local Representatives on Offsite Emergency Preparedness Issues

(Public Meeting) (Contact: Lisa Gibney, 301 415-8376).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Thursday, August 14, 2008

1:30 p.m. Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: Andrea Jones, 301 415-2309).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

#### Week of August 18, 2008—Tentative

There are no meetings scheduled for the week of August 18, 2008.

#### Week of August 25, 2008—Tentative

There are no meetings scheduled for the week of August 25, 2008.

\* \* \* \* \*

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Michelle Schroll, (301) 415-1662.

\* \* \* \* \*

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/about-nrc/policy-making/schedule.html>.

\* \* \* \* \*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301-492-2279, TDD: 301-415-2100, or by e-mail at [REB3@nrc.gov](mailto:REB3@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

\* \* \* \* \*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: July 17, 2008.

**Rochelle C. Bavol,**

*Office of the Secretary.*

[FR Doc. 08-1458 Filed 7-18-08; 10:23am]

BILLING CODE 7590-01-P

## RAILROAD RETIREMENT BOARD

### Actuarial Advisory Committee With Respect to the Railroad Retirement Account; Notice of Public Meeting

Notice is hereby given in accordance with Public Law 92-463 that the Actuarial Advisory Committee will hold a meeting on August 5, 2008, at 9:30 a.m. at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 24th Actuarial Valuation of the Railroad Retirement System. The agenda for this meeting will include a discussion of the assumptions to be used in the 24th Actuarial Valuation. A report containing recommended assumptions and the experience on which the recommendations are based will have been sent by the Chief Actuary to the Committee before the meeting.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092.

Dated: July 15, 2008.

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. E8-16587 Filed 7-21-08; 8:45 am]

BILLING CODE 7905-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58173; File No. SR-OPRA-2008-02]

### Options Price Reporting Authority; Notice of Filing of Proposed Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information, as Modified by Amendment No. 1 Thereto, To Amend OPRA's Vendor Agreement and Related Documents and Adopt a New Policy

July 16, 2008.

Pursuant to Section 11A of the Securities Exchange Act of 1934

(“Act”)<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> notice is hereby given that on May 30, 2008, the Options Price Reporting Authority (“OPRA”) submitted to the Securities and Exchange Commission (“Commission”) an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (“OPRA Plan”).<sup>3</sup> On July 1, 2008, OPRA submitted Amendment No. 1 to the proposed Amendment to the OPRA Plan.<sup>4</sup> The proposed OPRA Plan amendment, as modified by Amendment No. 1, would modify OPRA's Vendor Agreement in several respects, including revising OPRA's definition of the term “Nonprofessional.” In connection with the revision of the term “Nonprofessional,” the proposed OPRA Plan amendment would also amend OPRA's “Electronic Form of Subscriber Agreement” and “Hardcopy Form of Subscriber Agreement” and adopt a new Policy. The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment, as modified by Amendment No. 1.

#### I. Description and Purpose of the Amendment

The proposed Amendment to OPRA's Vendor Agreement has several purposes.

*A. Section 5: Definition of “Nonprofessional”; Revision of Forms of Subscriber Agreement; and New Policy*

OPRA proposes to revise its definition of the term “Nonprofessional.” The definition currently appears in Section 5 of OPRA's Vendor Agreement and in OPRA's “Electronic Form of Subscriber Agreement” and “Hardcopy Form of Subscriber Agreement.” These two

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder (formerly Rule 11Aa3-2). See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at <http://www.opradata.com>.

The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The seven participants to the OPRA Plan are the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Incorporated, the International Securities Exchange, LLC, the NASDAQ Stock Market LLC, the NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc.

<sup>4</sup> Amendment No. 1 replaced the original filing in its entirety.

forms are Attachments B-1 and B-2 to OPRA's form of Vendor Agreement.<sup>5</sup>

A person may become an OPRA "Subscriber" in one of two ways. The first way is that the person may sign a "Professional Subscriber Agreement" with the OPRA exchanges. In this case, the person pays fees directly to OPRA on the basis of the number of the person's "devices" and/or "UserIDs."

The second way is that the person may enter into a "Subscriber Agreement," not with the OPRA exchanges, but with an OPRA "Vendor"—an entity that has entered into a Vendor Agreement with the OPRA exchanges that authorizes the entity to redistribute OPRA Data to third persons. In this case, OPRA collects "usage-based" fees from the Vendor, which are often passed through to the Subscriber by the Vendor. If a person qualifies as a "Nonprofessional Subscriber," OPRA caps the fee that it charges the Vendor, and the fees that the Subscriber is required to pay to the Vendor may be less than they would be if the Subscriber is classified as a "Professional Subscriber."<sup>6</sup>

OPRA's current definition of the term "Nonprofessional" specifies that a person must be an "individual" in order to qualify as a Nonprofessional. OPRA has concluded that this aspect of the definition should be revised to state that a "legal person" may qualify as a Nonprofessional if the legal person is either an individual (a "natural person") or a "qualifying trust." The term "qualifying trust" is proposed to be defined essentially to refer to a trust established for the benefit of one or more members of the trustee's immediate family. OPRA is proposing changes to Section 5 of its form of Vendor Agreement and in its Electronic Form of Subscriber Agreement and Hardcopy Form of Subscriber Agreement to implement the revised definition.

<sup>5</sup> OPRA's form of Vendor Agreement and its forms of Subscriber Agreements are available on OPRA's Web site, <http://www.opradata.com>.

<sup>6</sup> More specifically, if a person qualifies as a "Nonprofessional" and signs a Subscriber Agreement with a Vendor, OPRA either caps the "usage-based fees" that it charges the Vendor for the person's access to OPRA Data at the level specified in its Fee Schedule—currently \$1.00/month—or, at the Vendor's option, simply charges the Vendor \$1.00/month for the person's access to OPRA Data. If a person does not qualify as a "Nonprofessional," the person may still sign a Subscriber Agreement with a Vendor, but OPRA either caps the "usage-based fees" that it charges the Vendor for the person's access to OPRA Data at the Professional Subscriber "per device" rate (currently \$21.00/month) or, at the Vendor's option, simply charges the Vendor the Professional Subscriber "per device" rate for the person's access to OPRA Data.

The Addendum for Nonprofessionals that is attached to OPRA's form of Subscriber Agreement also currently states that a person must use OPRA Data "solely in connection with [the person's] individual personal investment activities" in order to qualify as a Nonprofessional. OPRA has concluded that this language should be revised to clarify that a natural person may qualify as a Nonprofessional if the person uses OPRA Data for the person's own benefit and for the benefit of other members of the person's immediate family and qualifying trusts of which the person is the trustee or custodian, and to include a parallel statement with respect to qualifying trusts to the effect that a qualifying trust may constitute a Nonprofessional only if the trust uses OPRA Data only for the benefit of the trust.

OPRA is also proposing to adopt a new policy entitled "Policy with Respect to Definition of the Term 'Nonprofessional'." The purpose of this document is to facilitate implementation of the revised definition of the term "Nonprofessional" as described below under the heading "Manner of Implementation of Amendment."

OPRA believes that the changes that it is proposing in its definition of the term "Nonprofessional" will add clarity to the definition and better align the language of the definition with the understanding of the definition on the part of Vendors and Subscribers who are affected by the definition.

#### *B. Section 14: Reporting and Recordkeeping Requirements*

OPRA is proposing to change four provisions in Section 14 of the Vendor Agreement, which describes the reports and recordkeeping that OPRA requires of Vendors.

Paragraph 14(a) would be revised for several purposes. The current language of the paragraph could be misunderstood as requiring a Vendor to provide either a complete list of all Subscribers, including Subscribers that have entered into Subscriber Agreements with the Vendor, or changes to the previous version of the list, on a monthly basis. The revised language makes clear that OPRA requires only summary information on a monthly basis with respect to Subscribers that have entered into Subscriber Agreements with the Vendor. The current language of the paragraph requires that a Vendor report monthly with respect to "the number and type of devices" of each Professional Subscriber that has entered into a Professional Subscriber Agreement with OPRA.

OPRA has for many years permitted Professional Subscribers to pay fees on the basis of the number of "devices" or "User IDs" on which they receive OPRA Data,<sup>7</sup> and accordingly the revised language requires that a Vendor report monthly with respect to "the number of devices and/or User IDs" of each such Professional Subscriber that receives OPRA Data on Vendor controlled services. The revised language also states specifically that a Vendor's reports to OPRA pursuant to paragraph 14(a) are to be provided electronically in a form reasonably satisfactory to OPRA.

The purpose of the changes in the first sentence of paragraph 14(b) is to preserve the current meaning of the sentence in juxtaposition to revised paragraph 14(a). In addition to the reports called for by paragraph 14(a) (reports at least monthly), OPRA has the right to require more complete reports pursuant to paragraph 14(b). These reports are submitted no more frequently than quarterly. The revised first sentence of paragraph 14(b) continues to state that, whereas reports made pursuant to paragraph 14(a) may contain summary information with respect to Subscribers that have entered into Subscriber Agreements with the Vendor, reports made pursuant to paragraph 14(b) must include all information in the Vendor's list of Subscribers described in the first sentence of paragraph 14(a).

The change in clause 14(c)(3) would revise the language to make clear that a Vendor is not required to retain hardcopy originals of signed hardcopy Subscriber Agreements and may instead retain copies, either in hardcopy form or in electronic form, provided that copies that are maintained electronically are maintained in a "non-rewriteable, non-erasable format."<sup>8</sup>

The changes in new paragraph 14(d) (replacing the final sentence of paragraph 14(c)) refine the statement of OPRA's record retention requirements to shorten OPRA's record retention requirement and to make a distinction between two types of records. The current language requires a Vendor to retain all records "for at least six years after the date Vendor discontinues furnishing OPRA Data to such persons [*i.e.*, Subscribers]." That phrase is capable of being misunderstood to say that a Vendor must retain its records

<sup>7</sup> This is reflected in footnote 2 of OPRA's Fee Schedule and in its "Policies with respect to Device Based Fees," both of which are available on OPRA's Web site.

<sup>8</sup> This phrase is used in Rule 17a-4(f)(2)(ii)(A), 17 CFR § 240.17a-4(f)(2)(ii)(A). Rule 17a-4(f) describes the circumstances in which brokers and dealers may retain certain records in electronic form.

with respect to *all* Subscribers for at least six years after it ceases furnishing OPRA Data to *any* Subscriber. As revised, the language requires a Vendor to retain records with respect to its agreements with a Subscriber (these are records described in clauses 14(c)(1), (2) and (3)) for at least three years after it discontinues furnishing OPRA Data to that Subscriber, and requires a Vendor to retain records with respect to the actual use of OPRA Data (these are records described in paragraph 14(a) and clause 14(c)(4)) for at least three years after the records are created. The revised language is placed in a new paragraph 14(d), rather than being left in paragraph 14(c), to confirm that these record retention requirements apply to the Vendor's records with respect to Subscribers that are described in paragraph 14(a) as well as records described in paragraph 14(c).

### *C. Section 19: Provisions for Modifying the Vendor Agreement*

Paragraph 19(a) of the Vendor Agreement currently provides that, “[u]pon compliance with any applicable requirements of the Securities Exchange Act of 1934 (including any affirmative action by the SEC, if required),” OPRA may modify the terms of the Vendor Agreement upon not less than 30 days notice to Vendor, and then states that: “Within thirty (30) days of its receipt of any notice of modifications, Vendor shall notify OPRA in writing whether Vendor consents to the modifications. If Vendor does not consent to the modifications within thirty (30) days of its receipt of the notice, this Agreement shall immediately terminate.” This language could be read to say that, if OPRA wishes to use paragraph 19(a) to implement a change in the Vendor Agreement after complying with the applicable requirements of the Act, a Vendor must affirmatively “opt in” to the change or its Vendor Agreement will be terminated. OPRA currently has over one hundred and eighty Vendors. It is not realistic to expect all of them to sign and return a written consent to a modification of the Vendor Agreement within thirty days of receipt, and not in the interests of either OPRA or a Vendor to permit the Vendor's Vendor Agreement to terminate automatically if the Vendor fails to meet the thirty-day deadline. To avoid this result, OPRA is proposing to change this language so that it clearly states that, if OPRA wishes to use paragraph 19(a) to implement a change in the Vendor Agreement after complying with the applicable requirements of the Act, OPRA must furnish written notice of the change to the Vendor, following which

the Vendor need not “opt in” to the change in order to maintain its status as a Vendor, but may “opt out” of the change by terminating its Vendor Agreement if it is unwilling to accept the change. The revised paragraph makes clear that, if a Vendor timely gives notice of termination of its Vendor Agreement following its receipt of notice of a modification of the Vendor Agreement, the unmodified Vendor Agreement will constitute the agreement between the Vendor and OPRA until the effective date of the Vendor's termination.

OPRA also proposes to delete current paragraphs 19(b) and 19(c) of the Vendor Agreement. Current paragraph 19(b) specifically addresses the possibility that OPRA might need to modify the provisions of the Vendor Agreement that relate to the Electronic Subscriber Agreement. Current paragraph 19(c) requires that all modifications to the Vendor Agreement other than those described in paragraph 19(a) (modifications subject to the procedure described in this filing) and 19(b) (modifications relating to Electronic Subscriber Agreements) must be signed by the Vendor. OPRA believes that it is no longer necessary to have a paragraph specifically with respect to modifications of the Electronic Subscriber Agreement and that it is consistent with the changes in paragraph 19(a) described in this filing to delete paragraph 19(c).

### *D. Section 21: “Assignment” Provision*

Section 21 of the Vendor Agreement currently states that the Vendor may not assign the Vendor Agreement without the consent of OPRA “except to a successor corporation upon merger or consolidation of Vendor, or to a corporation acquiring all or substantially all of the property, assets and business of Vendor.” OPRA is proposing to modify that language to accommodate other business entities in addition to corporations.

The text of the proposed amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, and <http://opradata.com>.

## **II. Implementation of the OPRA Plan Amendment**

Upon approval by the Commission pursuant to Section 11A of the Act<sup>9</sup> and paragraph (b)(1) of Rule 608 thereunder,<sup>10</sup> OPRA will implement a new standard form of Vendor Agreement incorporating the amendments proposed in this filing, and

OPRA will require its current population of Vendors to sign either an Amendment in the form set forth as Exhibit I to its filing or the new standard form of Vendor Agreement. After a Vendor has signed either an Amendment or a new form of Agreement, OPRA will permit the Vendor to use the revised forms of Electronic Form of Subscriber Agreement and Hardcopy Form of Subscriber Agreement set forth in its filing as Exhibits III and IV.

OPRA is not proposing to require that OPRA Vendors replace the agreements that they currently have in place with Nonprofessional Subscribers. Instead, OPRA proposes to state in a new Policy, the form of which is attached as Exhibit V to its filing, that OPRA will interpret all Subscriber Agreements between Vendors and Nonprofessional Subscribers, including Subscriber Agreements that were entered into prior to the date on which this filing becomes effective, as if their language read as shown in Exhibits III and IV, respectively, to this filing. Following approval of this filing, OPRA intends to post the new Policy on its Web site and to send a copy of the new Policy to all current Vendors with the next monthly invoices that will be sent out by OPRA. The changes that OPRA is proposing may enable a person who is currently classified as a Professional to qualify as a Nonprofessional, but will not cause any person who currently qualifies to be a Nonprofessional to cease to be qualified to be a Nonprofessional. OPRA therefore believes that the changes will not work to the disadvantage of any OPRA Vendor or Subscriber. For this reason, it should not be necessary to require that any Subscriber enter into a new Agreement in order to have the benefit of the changes.

## **III. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Comments may be submitted by any of the following methods:

### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-OPRA-2008-02 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange

<sup>9</sup> 15 U.S.C. 78k-1.

<sup>10</sup> 17 CFR 242.608(b)(1).

Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-OPRA-2008-02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OPRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OPRA-2008-02 and should be submitted on or before August 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-16750 Filed 7-21-08; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58178; File No. SR-CBOE-2008-40]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 thereto, To Provide for the Issuance of ITPs

July 17, 2008.

#### I. Introduction

On April 9, 2008, the Chicago Board Options Exchange, Incorporated

("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposal to provide for the issuance of up to 50 Interim Trading Permits ("ITPs"). The proposed rule change was published for comment in the **Federal Register** on April 17, 2008.<sup>3</sup> The Exchange filed Amendment No. 1 to the proposed rule change on May 20, 2008, which reflected the vote of CBOE members approving the proposal.<sup>4</sup> The Commission received two comment letters regarding the proposal,<sup>5</sup> as well as two letters from CBOE addressing the concerns raised by the commenters.<sup>6</sup> This order approves the proposed rule change, as modified by Amendment No. 1.

The proposed rule change would allow the Exchange to issue up to 50 ITPs, which would grant to the holders thereof the same trading privileges on the Exchange as regular transferable Exchange memberships. Individuals and organizations that obtain ITPs would be able to conduct their activities in a manner similar to holders of Exchange memberships and CBOE rules that apply to the holders of memberships would also apply to the holders of ITPs. The Exchange has proposed the authority to issue these permits in order to address the demand for trading access to the Exchange in the event that a shortage exists from time to time in the number of transferable Exchange memberships available for lease.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 57650 (April 11, 2008), 73 FR 20989 ("Notice").

<sup>4</sup> Amendment No. 1 is technical in nature and is therefore not subject to notice and comment. See also General Instruction E to Form 19b-4 (concerning completion of action by a self-regulatory organization on a proposed rule change). In its amendment, CBOE noted that its proposal was approved by an "overwhelming majority" of the CBOE members who voted thereon. CBOE also confirmed that no further action on the part of CBOE is required in connection with this proposed rule change.

<sup>5</sup> See Letter from Lawrence J. Blum and Michael Mondrus, to Nancy M. Morris, Secretary, Commission, dated April 28, 2008 ("Blum/Mondrus Letter") and Letter from Mark and Joan Andrew, to Nancy M. Morris, Secretary, Commission, dated May 12, 2008 ("Andrew Letter").

<sup>6</sup> See Letter from Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, CBOE, to Nancy M. Morris, Secretary, Commission, dated May 12, 2008 ("CBOE Letter 1") and Letter from Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, CBOE, to Nancy M. Morris, Secretary, Commission, dated May 15, 2008 ("CBOE Letter 2").

#### II. Discussion

After careful review of the proposal, the comment letters thereto, and the Exchange's response to comments, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder.<sup>7</sup> In particular, the Commission finds that the Exchange's proposal is consistent with the requirements of Section 6(b)(5) of the Act,<sup>8</sup> which requires that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the Exchange's proposal is consistent with the requirements of Section 6(b)(3) of the Act,<sup>9</sup> which requires that the rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The Commission also finds that the Exchange's proposal is consistent with Section 6(b)(8) of the Act,<sup>10</sup> which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### A. Issuances of ITPs Under Proposed Rule 3.27(b)

The Exchange has proposed various requirements and specified certain processes in connection with the issuance of the ITPs. Specifically, an individual or organization would have to satisfy all requirements and be approved for membership in the Exchange to be eligible to apply for an ITP.<sup>11</sup> The Exchange would be able to issue one or more ITPs, subject to a

<sup>7</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78f(b)(3).

<sup>10</sup> 15 U.S.C. 78f(b)(8).

<sup>11</sup> See proposed CBOE Rule 3.27(b).

<sup>11</sup> 17 CFR 200.30-3(a)(29).

cumulative maximum total of 50, if it determines that: (1) There are insufficient transferable Exchange memberships available for lease at that time at a rate reasonably related to the indicative lease rate to meet existing demand for such leases;<sup>12</sup> and (2) it would be in the interest of fair and orderly markets to provide additional trading access under the circumstances (collectively, the “issuance findings”).

If the Exchange determines to issue ITPs, the Exchange would announce the number of ITPs that it would make available (limited by the number that are available for issuance, up to a cumulative maximum of 50), that the Exchange is taking applications for such permits, the objective process the Exchange would follow in issuing such permits,<sup>13</sup> and the beginning and end dates during which individuals and organizations must submit applications for such permits.<sup>14</sup> To be eligible to apply for an ITP, an individual or organization must meet all of CBOE’s requirements for membership in the Exchange and obtain CBOE’s approval for having met such requirements.<sup>15</sup> CBOE is not proposing to change any of these requirements. An individual would be eligible to receive no more than one ITP in connection with a particular ITP issuance, with a maximum of eight such permits for a member organization and individuals and member organizations affiliated with the member organization in connection with that issuance.<sup>16</sup>

Recipients of ITPs and all of their associated persons must remain in good standing and must pay all applicable fees, dues, assessments, and other

charges assessed against CBOE members.<sup>17</sup> An ITP would be non-transferable, except that: (1) A member organization may change the designation of the nominee in respect of each ITP it holds, and (2) an individual ITP holder may transfer that ITP to a member organization with which such individual is then associated.<sup>18</sup>

An ITP would remain in effect until the earlier of one of the following events: (1) CBOE is converted into a stock corporation or memberships in CBOE are converted into stock (collectively, a “Demutualization Transaction”), (2) the holder of the ITP notifies the Exchange in a form and manner prescribed by the Exchange that the holder is terminating that ITP,<sup>19</sup> (3) the ITP is terminated as a result of a regulatory action by the Exchange, or (4) the Exchange terminates all ITPs through a rule filing approved by the Commission pursuant to Section 19(b) of the Act.<sup>20</sup> In the event of a Demutualization Transaction, holders of ITPs would be guaranteed to receive trading permits on the same terms as holders of transferable Exchange memberships who are eligible to receive trading permits in connection with that transaction.<sup>21</sup> The Commission notes that this provision is designed to ensure that there is no disruption in trading access in the event of such a Demutualization Transaction, and thus should help to promote the fair and orderly character of the Exchange’s markets.

The Commission finds that the proposed framework and methodology that the Exchange would follow when issuing ITPs represents an objective methodology for the allocation of trading permits in a fair and reasonable manner and is consistent with the Act. The proposal provides the Exchange with the ability to address, from time to time, situations in which the demand for full trading access to the Exchange exceeds the supply of transferable memberships available for lease. The Commission believes that increasing the number of members in that situation is consistent with the Act because it would promote market liquidity and help to promote the fair and orderly character of CBOE’s markets. The

Commission also believes that the limit on the number of permits that may be obtained in any one issuance is consistent with the Act, including Section 6(c)(4) of the Act, which permits an exchange to limit the number of members of the exchange.<sup>22</sup> The Commission believes that the limit should help minimize the chance for any broker or dealer to dominate any particular issuance and should provide a broad opportunity for access to the Exchange. Finally, the Commission notes that the additional number of permits that CBOE would have authority to issue represents a small percentage of its 930 outstanding memberships and is consistent with the Act, including Section 6(b)(5) thereunder, in that it should permit the Exchange to offer additional access where demand so warrants, and should facilitate transactions in securities by potentially deepening the pool of liquidity available on the Exchange. Therefore, the Commission finds that the provisions of the proposal governing the issuance and duration of ITPs are consistent with the requirements of the Act.

#### B. Fair Representation of ITP Holders

The Commission finds that the proposed rule change is consistent with Section 6(b)(3) of the Act,<sup>23</sup> which requires that the rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. ITP holders would be members of CBOE and would have all rights attendant thereto, except as expressly provided otherwise.<sup>24</sup>

In particular, an ITP holder, or an officer of an ITP holder, would be eligible to serve as an at-large director on the Board of Directors of the Exchange (“CBOE Board”)<sup>25</sup> and on any Exchange committee to the same extent that a regular member could serve on

<sup>12</sup> The “indicative lease rate” would be the highest “clearing firm floating monthly rate” of the Clearing Members that assist in facilitating at least 10% of the transferable membership leases. The “clearing firm floating monthly rate” would be the floating rate that a Clearing Member designates, in connection with transferable membership leases that the Clearing Member assisted in facilitating, for leases that utilize that monthly rate.

<sup>13</sup> The Exchange would issue the ITPs in accordance with one of the following objective processes: (1) Random lottery, (2) order in time, or (3) another objective process adopted pursuant to a rule filing submitted to the Commission under Section 19(b) of the Act, 15 U.S.C. 78s(b).

<sup>14</sup> The Commission notes that although the number of permits to be issued is limited to a maximum of 50 permits, the Exchange could allocate ITPs in multiple issuances, each time in accordance with one of the objective processes. For example, the Exchange could decide to issue 10 permits by either an order-in-time process or a random lottery process.

<sup>15</sup> See proposed CBOE Rule 3.27(b). See also, e.g., CBOE Rules 3.2 and 3.3 (setting forth qualification requirements for individuals and member organizations, including, among other things, that the person be registered as a broker or dealer pursuant to Section 15 of the Act).

<sup>16</sup> See proposed CBOE Rule 3.27(b).

<sup>17</sup> See proposed CBOE Rule 3.27(f)(ii).

<sup>18</sup> See proposed CBOE Rule 3.27(g)(iii).

<sup>19</sup> If the holder of an ITP fails to notify the Exchange that he or she is terminating that ITP by the fifteenth day of the month, the holder would be required to pay to the Exchange an amount equal to the following month’s monthly access fee for an ITP. See Notice, *supra* note 3, 73 FR at 20991. The Exchange could reissue an ITP that had been terminated.

<sup>20</sup> See proposed CBOE Rule 3.27(c).

<sup>21</sup> See proposed CBOE Rule 3.27(e)(ii).

<sup>22</sup> 15 U.S.C. 78f(c)(4).

<sup>23</sup> 15 U.S.C. 78f(b)(3).

<sup>24</sup> The Commission notes that the voting and representation rights of ITP holders are substantively identical to the provisions addressing the voting and representation rights provided to CBOE Stock Exchange (“CBSX”) permit holders that the Commission previously approved. See Securities Exchange Act Release No. 55326 (February 21, 2007), 72 FR 8816 (February 27, 2007) (order approving File No. SR-CBOE-2006-107).

<sup>25</sup> See proposed Section 6.1(a) of the CBOE Constitution. The Exchange also proposes to amend Section 6.1(a) to remove a reference to the commencement of the classification of the Board that was implemented in 2002, because the transition period has now passed.

that committee, except as provided otherwise.<sup>26</sup> Further, an ITP holder, or an officer of an ITP holder, would be eligible to serve on CBOE's Nominating Committee in one of the six floor member and firm member positions on that committee, notwithstanding the fact that the holder of an ITP would not be a regular member or an officer of a regular member.<sup>27</sup>

ITP holders would have the same voting and petition rights as holders of transferable memberships, except that they would have no right to vote or petition concerning: (1) Issues that relate to Exchange ownership matters, including without limitation those matters related to demutualization, mergers, consolidations, dissolution, liquidation, transfer, or conversion of assets of the Exchange, and (2) matters that relate to Article Fifth(b)<sup>28</sup> of CBOE's Certificate of Incorporation.<sup>29</sup> This limitation reflects the fact that ITP holders would have no interest in the assets or property of the Exchange, and

would have no right to share in any distribution by the Exchange.<sup>30</sup>

### *C. Trading Rights of ITP Holders and Jurisdiction of the Exchange Over ITP Holders*

A holder of an ITP would have the same trading privileges on the Exchange as the holder of a transferable Exchange membership.<sup>31</sup> Those rights would include the right to trade on the CBSX and the trading rights on the Exchange necessary to become a member of OneChicago, LLC. An organization that holds an ITP or that has an ITP registered for it in general would be treated the same as a "member organization" for purposes of the rules.<sup>32</sup>

Holders of ITPs would be "members" of the Exchange under Section 3(a)(3) of the Act.<sup>33</sup> As members, ITP holders and their associated persons would be subject to the regulatory jurisdiction of the Exchange under the Act, and the Constitution and rules of the Exchange.<sup>34</sup> In this regard, for instance, ITPs may be suspended or revoked as a result of a disciplinary action under the amendments proposed for Rule 17.1. In particular, the Exchange would have the authority under proposed Rule 2.23 to revoke an ITP if the holder fails to pay any dues, fees, assessments, charges, fines or other amounts due to the Exchange within six months after such payment is due. In addition, the Exchange would have the authority under proposed Rules 16.3(c) and 16.4 to suspend or revoke the ITP of a holder that experiences financial difficulty. The Exchange also would have the authority under proposed Rule 17.1 to suspend or revoke an ITP if the holder has been disciplined by the Exchange.

Accordingly, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act,<sup>35</sup> which requires an exchange to have the capacity to carry out the purposes of the Act and to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and

regulations thereunder, and the rules of the Exchange. The Commission also finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>36</sup> which requires, among other things, that the rules of the Exchange promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In particular, ITP holders would have the same trading privileges on the Exchange and would be subject to the same regulatory jurisdiction of the Exchange as are applicable to holders of transferable Exchange memberships.

### *D. Transfer of ITP Holders to Open Leases*

In connection with determining to issue ITPs, the Exchange sought and received feedback from the Exchange's Lessors Committee. According to the Exchange, some participants on that committee expressed the concern that the issuance of ITPs potentially could have a negative effect on the lease market for CBOE seats by reducing the demand for leases.<sup>37</sup> Further, the commenters to the proposal, while acknowledging CBOE's need to provide additional access to the Exchange, also expressed concern that the proposal would negatively impact the value of existing memberships and dilute the income stream to lessors of current memberships.<sup>38</sup>

Specifically, in the Blum/Mondrus Letter, commenters acknowledged CBOE's need to provide more trading access to the Exchange, but criticized the proposed expansion of access as effecting a reduction in the value of existing memberships and diluting the income stream to lessors of memberships.<sup>39</sup> In addition, the Blum/Mondrus Letter argued that the Exchange's proposal to issue 50 access permits to itself would put the Exchange in competition with seat owners, many of whom lease their seats to others.<sup>40</sup> Further, the Blum/Mondrus Letter noted that a petition was being circulated among CBOE members to request that the CBOE Board consider an alternate access proposal, and asked the Commission to hold hearings on the proposal.<sup>41</sup> In the Andrew Letter, commenters similarly criticized the

<sup>26</sup> See proposed CBOE Rule 3.27(e)(i). The Commission notes that an ITP holder would be eligible to serve on Exchange committees that develop and/or review trading rules and would also be eligible for appointment to the Exchange's Business Conduct Committee, whose members are periodically appointed to conduct hearings for specific disciplinary matters. See E-mail from Patrick Sexton, Associate General Counsel, CBOE, to Johnna B. Dumler, Special Counsel, Division of Trading and Markets, Commission, dated May 20, 2008.

<sup>27</sup> See proposed Section 4.1(a) of the CBOE Constitution.

<sup>28</sup> Article Fifth(b) of CBOE's Certificate of Incorporation provides certain rights to members of the Board of Trade of the City of Chicago, Inc. ("CBOT") to become members of the CBOE without purchasing a separate CBOE membership (the "Exercise Right"). Pursuant to an interpretation of the Exchange that was recently approved by the Commission, CBOE believes that the acquisition of the CBOT by Chicago Mercantile Exchange Holdings, Inc. resulted in no persons any longer qualifying for the Exercise Right. See Securities Exchange Act Release No. 57159 (January 15, 2008), 73 FR 3769 (January 22, 2008) (order approving SR-CBOE-2006-106).

<sup>29</sup> See Section 2.6 of the CBOE Constitution and proposed CBOE Rule 3.27(g)(i). Under proposed Section 1.1(b) of the CBOE Constitution and proposed CBOE Rule 3.27(e)(i), ITP holders in good standing would be treated the same as members, except as provided in proposed Sections 2.1(c) and 2.6 of the CBOE Constitution, and except for purposes of Article Fifth(b) of the Certificate of Incorporation, Article Tenth of the Certificate of Incorporation, proposed Section 4.1(a) of the CBOE Constitution, proposed Section 6.1(a) of the CBOE Constitution, and as may be provided in the rules. Under Section 2.1(c) of the CBOE Constitution, an ITP holder would have no interest in the assets or property of the Exchange and no right to share in any distribution by the Exchange. Further, Section 2.6 of the CBOE Constitution would grant ITP holders the same voting and petition rights as regular members except that an ITP holder, like a CBSX member, would not have the right to vote or petition concerning the matters discussed above.

<sup>30</sup> See proposed Section 2.1(c) of the CBOE Constitution and proposed CBOE Rule 3.27(g)(ii).

<sup>31</sup> See proposed CBOE Rule 3.27(e)(i).

<sup>32</sup> See *id.* The Exchange notes that this provision is limited to the rules and is subject to the conditions imposed on ITP holder status in the CBOE Constitution and rules, including proposed Section 1.1(b) of the Constitution and proposed Rule 3.27(e)(i).

<sup>33</sup> 15 U.S.C. 78c(a)(3)(A).

<sup>34</sup> See proposed CBOE Rule 3.27(f)(i). See also 15 U.S.C. 78f(b)(6) and 15 U.S.C. 78f(c)(3). All Exchange members are required to be registered broker dealers. See CBOE Rules 3.2(a)(ii) and 3.3(a)(ii). The Commission has jurisdiction over all broker dealers.

<sup>35</sup> 15 U.S.C. 78f(b)(1).

<sup>36</sup> 15 U.S.C. 78f(b)(5).

<sup>37</sup> See Notice, *supra* note 3, 73 FR at 20992.

<sup>38</sup> See Blum/Mondrus Letter, *supra* note 5. See also Andrew Letter, *supra* note 5, at 1-2.

<sup>39</sup> See Blum/Mondrus Letter, *supra* note 5.

<sup>40</sup> See *id.*

<sup>41</sup> See *id.*



mechanics of the proposed ITP program.<sup>42</sup> In particular, they argued that CBOE would be usurping the historical practice of seat owners pricing floor access and receiving revenue therefrom.<sup>43</sup>

In its response to the commenters, the Exchange noted that the CBOE Board has explicit legal authority in Section 2.1(a) of CBOE's Constitution to adopt the proposed permit plan.<sup>44</sup> CBOE also noted that members would have an opportunity to vote on the merits of the plan.<sup>45</sup> In Amendment No. 1 to the proposed rule change, CBOE confirmed that it obtained both the requisite CBOE Board approval and membership approval, and confirmed that no further action by CBOE in connection with the proposal is necessary.<sup>46</sup> As approximately 82% of CBOE seats are currently leased,<sup>47</sup> the Commission notes that members who lease their seats had an opportunity to be heard on the proposal and have subsequently endorsed CBOE's proposed plan.

CBOE also noted that its members would be the ultimate beneficiaries of the plan and any revenues generated therefrom because they are the owners of the Exchange.<sup>48</sup> CBOE further noted that it is not unusual for an exchange to retain trading access fees, and noted that it currently does so with respect to CBSX permits.<sup>49</sup>

In addition, CBOE proposed certain features designed to address the concerns of lessors of CBOE memberships. To minimize any potential negative impact on the market for leased CBOE memberships, the proposal provides a process by which CBOE would endeavor to facilitate the transfer of holders of ITPs to leases that become available or, if necessary, compensate a lessor who holds an unleased seat with a monthly payment equal to the indicative lease rate. In particular, if the Exchange is notified by one or more lessors that they have transferable Exchange memberships available for lease ("open leases") at a

rate reasonably related, as determined by the Exchange in its sole discretion, to the indicative lease rate, then the Exchange would notify each ITP holder of the number of open leases and the names of the lessors with those open leases. The ITP holder could contact those lessors if the holder is interested in transferring to an open lease.<sup>50</sup> Transfer to an open lease would be entirely voluntary for ITP holders.<sup>51</sup>

If, after a reasonable period of time following the process set forth in the paragraph above, a lessor notifies the Exchange that the lessor continues to have an open lease, the Exchange would compensate that lessor through a monthly payment equal to the indicative lease rate, provided the lessor is offering for lease the transferable membership subject to the open lease at a rate reasonably related to the indicative lease rate, as determined by the Exchange in its sole discretion.<sup>52</sup> The lessor may, at any time thereafter, lease that membership to any qualified individual or organization and would be required to notify the Exchange in the event of such a lease. The Exchange would cease compensating the lessor if it receives such a notification or otherwise learns the lessor has leased that membership.

The Commission finds that the aspects of the proposal that relate to the Exchange's intention to facilitate the transfer of ITP holders to open leases, as well as the Exchange's proposal to compensate lessors who hold unleased seats that are offered for lease at a market rate when ITPs are outstanding, are consistent with the Act, including Section 6(b)(5) thereunder.<sup>53</sup> In particular, transfers of ITP holders to an open lease would be on a voluntary basis at the option of the ITP holder. Further, compensation to holders of CBOE transferable memberships that are unable to lease their seats at market rates when ITPs are outstanding is a business decision of the Exchange that does not raise any issues under the Act.

The Commission does not believe that the necessary result of CBOE's ITP

proposal is a reduction in the value of a CBOE membership or a decrease over time in the seat lease income paid to CBOE members. To the contrary, as CBOE provides additional trading access to the Exchange, the result could be an increase in liquidity that in turn increases the value of access to the Exchange. Further, the Commission notes that the Exchange has explicit authority in its Constitution to issue permits, and that CBOE members were informed of the proposal and have voted decidedly in favor of it. The Commission also notes that the Exchange currently receives trading access fees for permits to access CBSX, and the Commission notes CBOE's point that CBOE members, as owners of the Exchange, are the ultimate beneficiaries of the proposed permit plan and any revenues generated in connection therewith.

Similarly, the Commission does not believe that the proposal places the Exchange in competition with its members. When the Exchange determines to issue ITPs, consistent with the issuance findings, there would be insufficient seats available for lease at a rate reasonably related to the indicative lease rate. Thus, at the point in time of an issuance, the Exchange generally would not be in competition with any of its members who have open seats for lease at market rates. Further, the Exchange's use of the indicative lease rate is designed so that the Exchange will not issue ITPs at below-market rates. In particular, the indicative lease rate is an objective metric that is derived from lease rates determined by entities unaffiliated with the Exchange<sup>54</sup> in which there is a liquid market for leased seats.<sup>55</sup> Further, the Commission notes that the Exchange considers the highest of the "clearing firm floating monthly rates" when it establishes the "indicative lease rate," which the Commission believes alleviates the potential for any downward pressure on the market lease rate.<sup>56</sup>

Accordingly, the Commission does not believe that the ITP proposal imposes any burden on competition, consistent with Section 6(b)(8) of the

<sup>42</sup> See Andrew Letter, *supra* note 5.

<sup>43</sup> See *id.* at 1.

<sup>44</sup> See CBOE Comment Letter 1, *supra* note 6, at 1.

<sup>45</sup> See *id.*

<sup>46</sup> See Amendment No. 1, *supra* note 4.

<sup>47</sup> Telephone call with Arthur Reinstein, Deputy General Counsel, CBOE, Patrick Sexton, Associate General Counsel, CBOE, Stan Leimer, Director CBOE Membership Department, CBOE, and Richard Holley III, Senior Special Counsel, and Johnna B. Dumler, Special Counsel, Division of Trading and Markets, Commission, and J. Daniel Aromi, Office of Economic Analysis, Commission, on June 11, 2008 ("June 11 Telephone Call").

<sup>48</sup> See CBOE Comment Letter 1, *supra* note 6, at 2.

<sup>49</sup> See *id.*

<sup>50</sup> The Exchange would provide a similar notification to each person who is a Temporary Member under Interpretation and Policy .02 of Rule 3.19, and transfer to an open lease would be entirely voluntary. See Notice, *supra* note 3, 73 FR at 20992, n.16.

<sup>51</sup> See Notice, *supra* note 3, 73 FR at 20992.

<sup>52</sup> The "indicative lease rate" would be determined in accordance with proposed Rule 3.27(b). See *supra* note 12 (further describing the indicative lease rate). In the event that the number of lessors receiving compensation pursuant to this provision becomes greater than the number of outstanding ITPs, the Exchange would compensate each such lessor on a pro-rated basis.

<sup>53</sup> 15 U.S.C. 78f(b)(5).

<sup>54</sup> See *supra* note 12 (further describing the indicative lease rate).

<sup>55</sup> See Notice, *supra* note 3, 73 FR at 20990 (discussing the indicative lease rate) and June 11 Telephone Call, *supra* note 47. The Commission notes that, of the seats that are leased, more than 83% are currently facilitated by two clearing firms, such that the "clearing firm floating monthly rate" and the corresponding "indicative lease" rate are based on a significant and representative portion of the overall leased seat market.

<sup>56</sup> See *supra* note 12 (further describing the indicative lease rate).



Act,<sup>57</sup> that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange would issue ITPs, consistent with the issuance findings, when doing so would be in the interest of fair and orderly markets. In CBOE's judgment, therefore, the issuance of a limited number of permits through an objective methodology would contribute to the vitality of its market, thereby increasing the attractiveness of CBOE's market and consequently enhancing its value to CBOE members and other users of CBOE's facilities. In addition, as discussed above, the Exchange has proposed to provide compensation to holders of CBOE memberships that are unable to lease their seats at market rates when ITPs are outstanding, which the Commission believes would mitigate any potential burden that the proposal might represent to lessors of CBOE memberships.

Finally, the Commission notes the desire of a commenter to have CBOE delay the proposal and have the Commission hold hearings on the proposal.<sup>58</sup> Section 19(b)(1) of the Act<sup>59</sup> requires CBOE to file with the Commission any proposed changes to, or interpretations of, its rules and the Commission is thereafter obligated to consider CBOE's proposal. In this instance, given the member vote and approval, the Commission is acting on CBOE's proposal.

#### E. ITP Fees

Holders of ITPs would be required to pay to the Exchange a monthly access fee. The monthly access fee would be established and adjusted through a proposed rule change that would be filed with the Commission under Section 19(b) of the Act.<sup>60</sup> Such fees would be due and payable in accordance with the provisions of the Exchange fee schedule and would be the same for all ITP holders.<sup>61</sup> Commenters suggested that CBOE provide better justification for its claim to floor access revenue.<sup>62</sup> In response, CBOE stated that, because its members own the Exchange, they are the ultimate beneficiaries of any revenues that may be generated by the permit plan and that the members will have an opportunity to be heard on that aspect of the proposal when they vote on the

proposal.<sup>63</sup> CBOE also noted that the commenter incorrectly suggested that it is unusual for an exchange to set the level of and retain trading access fees, and noted that the CBSX permit plan is based on that model.<sup>64</sup> The Commission is not today approving the level of the monthly access fee for ITPs and notes that such fees would be the subject of a separate proposed rule change. Nevertheless, the Commission agrees with CBOE that it is consistent with Section 6(b)(4) of the Act<sup>65</sup> for exchanges to charge for access to their facilities.<sup>66</sup>

#### F. Conforming Rule Changes To Accommodate ITPs and Clarifying Changes Relating to CBSX Permits

The Exchange proposed several conforming changes in its rules to ensure that individuals and organizations that receive ITPs can conduct their activities in a manner similar to holders of Exchange memberships.<sup>67</sup> These changes relate to, among other things, registration, designation of nominees, and qualifications. Other conforming changes have been made to the rules so that certain requirements related to the holders of memberships would apply to the holders of ITPs. For example, CBOE would amend Rule 3.2(c) to specify that individual ITP holders would be required to have authorized trading functions.<sup>68</sup>

Additionally, though unrelated to the ITP proposal, CBOE also proposed to adopt several changes to clarify how CBSX permits currently are treated under the Certificate of Incorporation, Constitution, and rules. These changes, which adopt certain language that is also being proposed for ITPs, are non-substantive in nature and do not modify the rights of the holders of such permits or materially alter the status quo with

respect to the Exchange's operation of CBSX.<sup>69</sup>

The Commission finds that the conforming and clarifying changes proposed by the Exchange are consistent with the requirements of Section 6 of the Act. In particular, the clarifying and conforming changes are non-substantive in nature and should provide greater clarity to market participants, including CBOE's members and CBSX permit holders, regarding the application and operation of the Exchange's rules.

#### III. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>70</sup> that the proposed rule change (SR-CBOE-2008-40), as modified by Amendment No. 1 thereto, be, and hereby is approved.

By the Commission.

**Florence E. Harmon,**  
*Acting Secretary.*

[FR Doc. E8-16747 Filed 7-21-08; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58164; File No. SR-ISE-2008-56]

#### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Waivers

July 15, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 1, 2008, International Securities Exchange, LLC (the "ISE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The ISE filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders

<sup>63</sup> See CBOE Letter 2, *supra* note 6, at 2. On May 19, 2008, the CBOE membership approved the ITP plan. See Amendment No. 1, *supra* note 4.

<sup>64</sup> See CBOE Letter 2, *supra* note 6, at 2. CBOE also sought to clarify a reference in the Andrew Letter to trading access funds that, according to the Andrew Letter, are being held in "escrow." CBOE noted that the fees to be collected under its ITP proposal would not be held in escrow and no escrowed funds would be affected by its proposal. See *id.*

<sup>65</sup> 15 U.S.C. 78f(b)(4).

<sup>66</sup> See, e.g., Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251, 11268 (March 6, 2006) (SR-NYSE-2005-77) (approving a process to determine an access fee for trading licenses and noting that the exchange would later file a separate proposed rule change to amend its fee schedule to establish the price).

<sup>67</sup> See Notice, *supra* note 3, 73 FR at 20992-94 (describing each such proposed rule change).

<sup>68</sup> See Notice, *supra* note 3, 73 FR at 20993.

<sup>69</sup> For example, the Exchange proposes to change the terminology in CBOE Rule 3.26(c) to note that (except as indicated therein) CBSX permit holders are treated the "same as" members, rather than being "deemed to be" members for purposes of the Certificate of Incorporation, Constitution, and rules. In addition, the Exchange is proposing to amend CBOE Rule 3.26(c) to clarify that an organization that holds a CBSX permit or that has a CBSX permit registered for it shall be treated the same as a "member organization" for purposes of the CBOE rules. See Notice, *supra* note 3, 73 FR at 20993.

<sup>70</sup> 15 U.S.C. 78s(b)(2).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>57</sup> 15 U.S.C. 78f(b)(8).

<sup>58</sup> See Blum/Mondrus Letter, *supra* note 5.

<sup>59</sup> 15 U.S.C. 78s(b)(1).

<sup>60</sup> 15 U.S.C. 78s(b).

<sup>61</sup> See proposed CBOE Rule 3.27(f)(ii).

<sup>62</sup> See Andrew Letter, *supra* note 5, at 2.

the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The ISE is proposing to amend its Schedule of Fees by adopting fee waivers related to the execution on ISE of public customer orders exposed to members before those orders are sent out for execution on another exchange through the intermarket linkage ("Linkage"). The text of the proposed rule change is available at the Exchange, <http://www.ise.com>, and the Commission's Public Reference Room.

### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### **A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

##### **1. Purpose**

Before a Primary Market Maker ("PMM") sends a customer order through the Linkage when ISE is not at the national best bid or offer ("NBBO"), the Exchange exposes these customer orders to all its members to give them an opportunity to match the NBBO.<sup>5</sup>

Specifically, before the PMM sends a Linkage Order on behalf of a public customer, the public customer order is exposed at the NBBO price for a period established by the Exchange not to exceed one second. During this exposure period, Exchange members may enter responses up to the size of the order being exposed in the regular trading increment applicable to the option. If at the end of the exposure period, the order is executable at the then-current NBBO and the ISE is not at

the then-current NBBO, the order is executed against responses that equal or better the then-current NBBO. The exposure period is terminated if the exposed order becomes executable on the ISE at the prevailing NBBO or if the Exchange receives an unrelated order that could trade against the exposed order at the prevailing NBBO price. If, after an order is exposed, the order is not executed in full on the Exchange at the then-current NBBO or better, and it is marketable against the then-current NBBO, the PMM sends a Linkage Order on the customer's behalf for the balance of the order as provided in Rule 803(c)(2)(ii). If the balance of the order is not marketable against the then-current NBBO, it is placed on the ISE book.

To encourage ISE members to respond to the exposure of these public customer orders, ISE proposes to waive the Firm Proprietary, ISE Market Maker and Payment for Order Flow fees incurred by members who step up and match or improve the NBBO during the exposure period so these public customer orders can be executed on the Exchange.<sup>6</sup>

The Exchange notes that the proposed rule change will allow ISE to retain more flow by giving these customer orders additional opportunity to be executed at the NBBO at ISE and will also reduce PMM costs by reducing the number of Linkage orders they must send to other exchanges.<sup>7</sup>

##### **2. Statutory Basis**

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

#### **B. Self-Regulatory Organization's Statement on Burden on Competition**

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### **C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others**

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(2) thereunder,<sup>9</sup> because it establishes or changes a due, fee, or other charge imposed on members by ISE. Accordingly, the proposal is effective upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### **Electronic Comments**

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2008-56 on the subject line.

#### **Paper Comments**

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2008-56. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in

<sup>5</sup> See Securities Exchange Act Release No. 58038 (June 26, 2008), 73 FR 38261 (July 3, 2008) (SR-ISE-2008-50) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exposure of Public Customer Orders to all ISE Members).

<sup>6</sup> See e-mail from Samir Patel, Assistant General Counsel, ISE to Jennifer Colihan and Christopher Chow, Special Counsels, Commission, dated July 11, 2008.

<sup>7</sup> See *id.*

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2008-56 and should be submitted on or before August 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**  
Acting Secretary.

[FR Doc. E8-16686 Filed 7-21-08; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58174; File No. SR-NYSEArca-2008-54]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval to a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend Rules 6.62 and 6.91 Describing Complex Orders, Complex Order Priority, and Complex Order Execution

July 16, 2008.

#### I. Introduction

On May 23, 2008, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend NYSE Arca Rules 6.62 and 6.91 describing complex orders, complex order priority, and complex order execution. On June 5, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. The proposal, as modified by Amendment No. 1, was published for comment in the **Federal Register** on June 11, 2008.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

#### II. Description of the Proposal

The Exchange proposes to amend NYSE Arca Rules 6.62 and 6.91 describing complex orders, complex order priority, and complex order execution. Proposed NYSE Arca Rule 6.62 eliminates specific definitions for a number of complex order types and adopts a generic definition for Complex Orders that is consistent with the definition for Complex Orders approved for use for exemption from Trade Through Liability by the Options Linkage Authority as described in the *Plan For The Purpose Of Creating And Operating An Intermarket Option Linkage* ("Linkage Plan").

Proposed NYSE Arca Rule 6.91 describes the entry of Complex Orders in the Consolidated Book and the operation of the mechanism, called the Complex Order Matching Engine, in which Complex Orders will be executed against each other or against individual quotes and orders in the Consolidated Book. Complex Orders will be ranked in the Consolidated Book in price-time priority based on the strategy and the total or net debit or credit. OTP Holders and OTP Firms will have the ability to view Complex Orders in the Consolidated Book via an electronic interface and to submit orders to the Complex Matching Engine to trade against such orders.

Complex Orders eligible for execution in the Complex Matching Engine are defined to be consistent with the Linkage Plan Trade Through exemption. Therefore execution prices for the individual legs of a Complex Order that are outside of the National Best Bid or Offer may be reported. The Complex Matching Engine will never, however, execute any of the legs of a Complex Order at a price outside of the NYSE Arca best bid or offer ("NYSE Arca BBO") for that leg.

Under proposed NYSE Arca Rule 6.91, Complex Orders submitted to NYSE Arca will attempt to execute against other Complex Orders in the Consolidated Book before attempting to execute against the individual leg markets in the Consolidated Book, provided that if individual orders or quotes residing in the Consolidated Book can execute against the incoming Complex Order in full (or in a permissible ratio) at the same total or net debit or credit as a Complex Order in the Consolidated Book, the individual orders or quotes will have priority. Complex Orders that are not executable when submitted to NYSE Arca will be entered into the Consolidated Book. The Complex Matching Engine then will monitor

individual quotes and orders in the leg markets. If a new order(s) or quote(s) enters the Consolidated Book so that the Complex Order becomes executable in full (or in a permissible ratio), the Complex Order will be executed against the individual quotes and orders.

The Exchange also proposes that Lead Market Makers not be afforded any guaranteed allocation either (a) in the execution of a complex strategy or (b) if present at the NYSE Arca BBO, when a Complex Order executes against the individual leg markets since.

#### III. Discussion and Commission Findings

After careful review of the proposal, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>4</sup> In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>5</sup> which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that adopting a generic definition for Complex Orders that is consistent with the definition for Complex Orders approved for use for exemption from the Linkage Plan's Trade-Through Liability is consistent with the Act. The Commission notes that a generic definition for Complex Orders would provide increased flexibility in the use of orders that represent investment strategies designed to limit risk or unwind an already established position in a portfolio.

The Commission also believes that the Complex Matching Engine should increase the transparency of Complex Orders and could facilitate the execution of Complex Orders. The Commission notes that the priority of the individual leg markets will continue to be maintained. In this regard, if individual orders or quotes residing in the Consolidated Book can execute against the incoming Complex Order in full (or in a permissible ratio) at the same or better total or net debit or credit as a Complex Order in the Consolidated

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 57927 (June 5, 2008), 73 FR 33131.

<sup>4</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78f(b)(5).

Book, the individual orders or quotes in the leg markets will have priority. Finally, the Commission believes that the Exchange's proposal not to provide a guaranteed allocation to LMMs with respect to Complex Orders executed in the Complex Matching Engine is reasonable and consistent with the Act, because LMMs do not have any quoting obligations for complex strategies.

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (SR-NYSEArca-2008-54), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

[FR Doc. E8-16751 Filed 7-21-08; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58168; File No. SR-Phlx-2008-53]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to an Exchange Member's Conduct of Doing Business With the Public

July 16, 2008.

Pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 11, 2008, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rules 1024 (Conduct of Accounts for Options Trading), 1025 (Supervision of Accounts), 1027 (Discretionary Accounts), and 1049 (Communications to Customers) that govern an Exchange

member's conduct of doing business with the public. Specifically, the proposed rule change would require that member organizations integrate the responsibility for supervision of a member organizations' public customer options business into their overall supervisory and compliance programs. In addition, the proposed rule change would strengthen member organizations' supervisory procedures and internal controls as they relate to a members' public customer options business.

The text of the proposed rule change is available at the Phlx, the Commission's Public Reference Room and [http://www.phlx.com/regulatory/reg\\_rulefilings.aspx](http://www.phlx.com/regulatory/reg_rulefilings.aspx).

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

a. *Integration of Options Supervision*  
The purpose of the proposed rule change is to create a supervisory structure for options that is similar to that required by New York Stock Exchange ("NYSE") Rule 342 and National Association of Securities Dealers ("NASD") Rule 3010.<sup>3</sup> The proposed rule change would eliminate the requirement that member organizations qualified to do a public customer business in options must designate a single person to act as Senior Registered Options Principal ("SROP") for the member organization and that each such member organization

designate a specific individual as a Compliance Registered Options Principal ("CROP"). Instead member organizations would be required to integrate the SROP and CROP functions into their overall supervisory and compliance programs. The proposed rule change is substantively similar to recent amendments to the rules of the Chicago Board Options Exchange, Inc. ("CBOE") which were approved by the Commission.<sup>4</sup>

The SROP concept was first introduced by Phlx and other options exchanges during the early years of the development of the listed options market. Initially, member organizations were required to designate one or more persons qualified as Registered Options Principals ("ROPs") having supervisory responsibilities in respect of the member organization's options business. As the number of ROPs at larger member organizations began to increase, Phlx imposed an additional requirement that member organizations designate one of their ROPs as the SROP. This was intended to eliminate confusion as to where the compliance and supervisory responsibilities lay by centralizing in a single supervisory officer overall responsibility for the supervision of a member organization's options activities.<sup>5</sup> Subsequently, following the recommendation of the Commission's Options Study, Phlx and other options exchanges required member organizations to designate a CROP to be responsible for the member organization's overall compliance program in respect of its options activities.<sup>6</sup> The CROP may be the same person who is designated as SROP.

Since the SROP and CROP requirements were first imposed, the supervisory function in respect of the options activities of most securities firms has been integrated into the matrix of supervisory and compliance functions in respect of the firms' other securities activities. This not only reflects the maturity of the options market, but also recognizes the ways in which the uses of options themselves have become more integrated with other securities in the implementation of particular strategies. Thus, the current requirement for a separately designated senior supervisor in respect of all aspects of a member organization's options activities, rather than clarifying the allocation of supervisory

<sup>3</sup> On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to Financial Industry Regulatory Authority, Inc., or FINRA, in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. See Securities Exchange Act Release No. 56146 (July 26, 2007), 72 FR 42190 (August 1, 2007). The FINRA rule book currently consists of both NASD rules and certain NYSE Rules that FINRA has incorporated.

<sup>4</sup> See Securities Exchange Act Release No. 56971 (December 14, 2007), 72 FR 72804 (December 21, 2007) (SR-CBOE-2007-106).

<sup>5</sup> See Securities and Exchange Commission, 96th Cong., 1st Sess., Report of the Special Study of the Options Markets (Comm. Print 1978) 316 fn. 11.

<sup>6</sup> *Id.* at P. 335

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

responsibilities within the member organization, may have just the opposite effect by failing to take into account the way in which these responsibilities are actually assigned. By permitting supervision of a member organization's options activities to be handled in the same manner as the supervision of its other securities and futures activities, the proposed rule change will ensure that supervisory responsibility over each segment of the member organization's business is assigned to the best qualified person in the member organization, thereby enhancing the overall quality of supervision. The same holds true for the compliance function.

For example, member organizations generally designate one person to have supervisory responsibility over the application of margin requirements and other matters pertaining to the extension of credit. The proposed rule change would enable a member organization to include within the scope of such a person's duties the supervision over the proper margining of options accounts, thereby assuring that the most qualified person is charged with this responsibility and at the same time eliminating any uncertainty that might now exist as to whether this responsibility lies with the senior credit supervisor or with the SROP.

Similarly, the proposed rule change would allow a member organization to specifically designate one or more individuals as being responsible for approving a ROP's acceptance of discretionary accounts<sup>7</sup> and exceptions to a member organization's suitability standards for trading uncovered short options.<sup>8</sup> The proposed rule changes would allow member organizations the flexibility to assign such responsibilities, which formerly rested with the SROP and/or CROP, to more than one ROP qualified individual where the member organization believes it advantageous to do so to enhance its supervisory or compliance structure. Typically, a member organization may wish to divide these functions on the basis of geographic region or functional considerations. Phlx Rule 1024 would be amended to clarify the qualification requirements of individuals designated as ROPs.<sup>9</sup> Rule 1024 would also be amended to specify the registration requirements of individuals who accept orders from non-broker-dealer customers.<sup>10</sup>

The proposed rule change would call for options discretionary accounts, the acceptance of which must be approved by a ROP qualified individual (other than the ROP who accepted the account), to be supervised in the same manner as the supervision of other securities accounts that are handled on a discretionary basis.<sup>11</sup> The proposed rule change would eliminate the requirement that discretionary options orders be approved on the day of entry by a ROP (with one exception as described below).<sup>12</sup> This requirement predates the Options Study and is not consistent with the use of supervisory tools in computerized format or exception reports generated after the close of a trading day. No similar requirement exists for supervision of other securities accounts that are handled on a discretionary basis.<sup>13</sup> Discretionary orders must be reviewed in accordance with a member organization's written supervisory procedures. The proposed rule change would ensure that supervisory responsibilities are assigned to specific ROP qualified individuals, thereby enhancing the quality of supervision.

Phlx Rule 1027 would be revised by adding, as Commentary .01, a requirement that any member organization that does not utilize computerized surveillance tools for the frequent and appropriate review of discretionary account activity must establish and implement procedures to require ROP qualified individuals who have been designated to review discretionary accounts to approve and initial each discretionary order on the day entered. The Exchange believes that any member organization that does not utilize computerized surveillance tools to monitor discretionary account activity should continue to be required to perform the daily manual review of discretionary orders.

Under the proposed rule change, options discretionary accounts will continue to receive frequent appropriate supervisory review by designated ROP qualified individuals. Additionally, member organizations will continue to be required to designate ROP qualified individuals to review and approve the acceptance of options discretionary accounts in order to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions.<sup>14</sup> This requirement

provides an additional level of supervisory audit over options discretionary accounts that does not exist for other securities discretionary accounts.

In addition, the proposed rule change would require that each member organization submit to the Exchange a written report by April 1 of each year, that details the member organization's supervision and compliance effort, including its options compliance program, during the preceding year and reports on the adequacy of the member organization's ongoing compliance processes and procedures.<sup>15</sup>

Proposed Phlx Rule 1025(h) would require that each member organization submit, by April 1st of each year, a copy of the Phlx Rule 1025(g) annual report to one or more of its control persons or, if the member organization has no control person, to the audit committee of its board of directors or its equivalent committee or group.<sup>16</sup>

Proposed Phlx Rule 1025(g) would provide that a member organization that specifically includes its options compliance program in a report that complies with substantially similar NYSE and NASD rule requirements will be deemed to have satisfied the requirements of Phlx Rules 1025(g) and 1025(h).

Although the proposed rule change would eliminate entirely the positions and titles of the SROP and CROP, member organizations would still be required to designate a single general partner or executive officer to assume overall authority and responsibility for internal supervision, control of the member organization and compliance with securities laws and regulations.<sup>17</sup> Member organizations would also be required to designate specific qualified individuals as having supervisory or compliance responsibilities over each aspect of the member organization's options activities and to set forth the names and titles of these individuals in their written supervisory procedures.<sup>18</sup> This is consistent with the integration of options supervision into the overall supervisory and compliance structure of a member organization. In connection with the approval of these proposed rule changes, the Exchange intends to review member organizations' written supervisory and compliance procedures in the course of the Exchange's routine examination of member organizations to

<sup>15</sup> See proposed Phlx Rule 1025(g), which is modeled after NYSE Rule 342.30.

<sup>16</sup> See proposed Phlx Rule 1025(h) which is modeled after NYSE Rule 354.

<sup>17</sup> See proposed Phlx Rule 1025(a).

<sup>18</sup> See proposed Commentary .02 to Phlx Rule 1025.

<sup>7</sup> See proposed Phlx Rule 1027(a)(i).

<sup>8</sup> See proposed Phlx Rule 1024(c).

<sup>9</sup> See proposed Commentaries .06 and .07 to Phlx Rule 1024.

<sup>10</sup> See proposed Commentary .08 to Phlx Rule 1024.

<sup>11</sup> See proposed Phlx Rule 1025.

<sup>12</sup> See proposed Phlx Rule 1027(a).

<sup>13</sup> See e.g., NYSE Rule 408.

<sup>14</sup> See proposed Phlx Rule 1027(a).

ensure that supervisory and compliance responsibilities are adequately defined.

The Exchange believes that the proposed rule changes recognize that options are no longer in their infancy, have become more integrated with other securities in the implementation of particular strategies, and thus should not continue to be regulated as though they are new and experimental products. The Exchange believes that the proposed rule change is appropriate and would not materially alter the supervisory operations of member organizations. The Exchange believes the supervisory and compliance structure in place for non-options products at most member organizations is not materially different from the structure in place for options.

#### b. Supervisory Procedures and Internal Controls

The Exchange also proposes to amend certain rules to strengthen member and member organizations' supervisory procedures and internal controls as they relate to the members' public customer options business. The proposed rule changes described below are modeled after NYSE and NASD rules approved by the Commission in 2004.<sup>19</sup> The Exchange believes the following proposal to strengthen member supervisory procedures and internal controls is appropriate and consistent with the preceding proposal to integrate options and non-options sales practice supervision and compliance functions.

Phlx Rule 1025(a)(iii) would be revised to require the development and implementation of written policies and procedures reasonably designed to supervise sales managers and other supervisory personnel who service customer options accounts (i.e., who act in the capacity of a registered representative).<sup>20</sup> This requirement would apply to branch office managers, sales managers, regional/district sales managers, or any person performing a similar supervisory function. Such policies and procedures are expected to encompass all options sales-related activities. Proposed Phlx Rule 1025(a)(iii)(A) would require that supervisory reviews of producing sales managers be conducted by a qualified ROP who is either senior to, or otherwise "independent of", the producing manager under review.<sup>21</sup>

This provision is intended to ensure that all options sales activity of a producing manager is monitored for compliance with applicable regulatory requirements by persons who do not have a personal interest in such activity.

Proposed Phlx Rule 1025(a)(iii)(B) would provide a limited exception for members so limited in size and resources that there is no qualified person senior to, or otherwise independent of, the producing manager to conduct the review. In this case, the reviews may be conducted by a qualified ROP to the extent practicable. Under proposed Phlx Rule 1025(a)(iii)(C), a member relying on the limited size and resources exception must document the factors used to determine that compliance with each of the "senior" or "otherwise independent" standards of Phlx Rule 1025(a)(iii)(A) is not possible, and that the required supervisory systems and procedures in place with respect to any producing manager comply with the provisions of Phlx Rule 1025(a)(iii)(A) to the extent practicable.<sup>22</sup>

Proposed Phlx Rule 1025(c)(i) would require member organizations to develop and maintain adequate controls over each of their business activities.<sup>23</sup> The proposed rule would further require that such controls include the establishment of procedures to independently verify and test the supervisory systems and procedures for those business activities. Member organizations would be required to include in the annual report prepared pursuant to Phlx Rule 1025(g) a review of their efforts in this regard, including a summary of the tests conducted and significant exceptions identified. The

may not report either directly or indirectly to the producing manager under review; must be situated in an office other than the office of the producing manager; must not otherwise have supervisory responsibility over the activity being reviewed; and must alternate such review responsibility with another qualified person every two years or less. Further, if a person designated to review a producing manager receives an override or other income derived from that producing manager's customer activity that represents more than 10% of the designated person's gross income derived from the member organization over the course of a rolling twelve-month period, the member organization must establish alternative senior or otherwise independent supervision of that producing manager to be conducted by a qualified Registered Options Principal other than the designated person receiving the income.

<sup>22</sup> Paragraph 1025(a)(iii)(D) of Phlx Rule 1025 would provide that a member organization that complies with requirements of the NYSE or the NASD that are substantially similar to the requirements in Phlx Rules 1025(a)(iii)(A), (a)(iii)(B) and (a)(iii)(C) will be deemed to have met such requirements.

<sup>23</sup> Current Phlx Rule 1025(c) regarding designation of foreign currency options principals was renumbered as 1025(i).

Exchange believes proposed Phlx Rule 1025(c)(i) would enhance the quality of member organizations' supervision.<sup>24</sup>

Proposed Phlx Rule 1025(d) would establish requirements for branch office inspections similar to the requirements of NYSE Rule 342.24. Specifically, Phlx Rule 1025(d) would require a member organization to inspect, at least annually, each supervisory branch office and inspect each non-supervisory branch office at least once every three years.<sup>25</sup> The proposed rule would further require that persons who conduct a member organization's annual branch office inspection must be independent of the direct supervision or control of the branch office (i.e., not the branch office manager, or any person who directly or indirectly reports to such manager, or any person to whom such manager directly reports). The Exchange believes that requiring branch office inspections to be conducted by someone who has no significant financial interest in the success of a branch office should lead to more objective and vigorous inspections.

Under proposed Phlx Rule 1025(e), any member organization seeking an exemption, pursuant to Phlx Rule 1025(d)(ii), from the annual branch office inspection requirement would be required to submit to the Exchange written policies and procedures for systematic risk-based surveillance of its branch offices, as defined in Phlx Rule 1025(e). Proposed Phlx Rule 1025(f) would require that annual branch office inspection programs include, at a minimum, testing and verification of specified internal controls.<sup>26</sup> Paragraph (d)(3) of Phlx Rule 1025 would provide that a member organization that complies with requirements of the NYSE or the NASD that are substantially similar to the requirements in Phlx Rules 1025(d), (e) and (f) will be deemed to have met such requirements.

In conjunction with the proposed changes to Phlx Rules 1025(d), (e) and

<sup>24</sup> See proposed Phlx Rule 1025(c)(i) which is modeled after NYSE Rule 342.23. Paragraph (c)(ii) of Phlx Rule 1025 would provide that a member organization that complies with requirements of the NYSE or the NASD that are substantially similar to the requirements in Phlx Rule 1025(c)(i) will be deemed to have met such requirements.

<sup>25</sup> Proposed Phlx Rules 1025(d)(i)(A) and (B) would provide members with two exceptions from the annual branch office inspection requirement: a member may demonstrate to the satisfaction of the Exchange that other arrangements may satisfy the Rule's requirements for a particular branch office, or based upon a member organization's written policies and procedures providing for a systematic risk-based surveillance system, the member organization submits a proposal to the Exchange and receives, in writing, an exemption from this requirement pursuant to Phlx Rule 1025(e).

<sup>26</sup> See proposed Phlx Rules 1025(e) and (f) which are modeled after NYSE Rules 342.25 and 342.26.

<sup>19</sup> See Securities Exchange Act Release Nos. 49882 (June 17, 2004), 69 FR 35108 (June 23, 2004) (SR-NYSE-2002-36) and 49883 (June 17, 2004), 69 FR 35092 (June 23, 2004) (SR-NASD-2002-162).

<sup>20</sup> See proposed Phlx Rule 1025(a)(iii) which is modeled after NYSE Rule 342.19.

<sup>21</sup> An "otherwise independent" person is defined in proposed Phlx Rule 1025(a)(iii)(A) as one who:

(f), the Exchange proposes to add new Commentary .09 to Phlx Rule 1024 to define "branch office" in a way that is substantially similar to the definition of branch office in NYSE Rule 342.10.

Proposed Phlx Rule 1024(g)(iv) would require a member organization to designate a Chief Compliance Officer (CCO). Proposed Phlx Rule 1025(g)(v) would require each member organization's Chief Executive Officer (CEO), or equivalent, to certify annually per subsection (A) that the member organization has in place processes to: (1) Establish and maintain policies and procedures reasonably designed to achieve compliance with applicable Exchange rules and federal securities laws and regulations; (2) modify such policies and procedures as business, regulatory, and legislative changes and events dictate; and (3) test the effectiveness of such policies and procedures on a periodic basis, the timing of which is reasonably designed to ensure continuing compliance with Exchange rules and federal securities laws and regulations.

Proposed Phlx Rule 1025(g)(v) would further require that the CEO attest the CEO has conducted one or more meetings with the CCO in the preceding 12 months to discuss the compliance processes in proposed Phlx Rule 1025(g)(v), that the CEO has consulted with the CCO and other officers to the extent necessary to attest to the statements in the certification, and the compliance processes are evidenced in a report, reviewed by the CEO, CCO, and such other officers as the member organization deems necessary to make the certification, that is provided to the member organization's board of directors and audit committee (if such committee exists).<sup>27</sup>

Under proposed Phlx Rule 1025(b)(ii), a member, upon a customer's written instructions, may hold mail for a customer who will not be at his or her usual address for no longer than two months if the customer is on vacation or traveling, or three months if the customer is going abroad. This provision would help ensure that members that hold mail for customers who are away from their usual addresses, do so only pursuant to the customer's written instructions and for a specified, relatively short period of time.<sup>28</sup>

Proposed Phlx Rule 1025(b)(iii) would require that, before a customer's options

order is executed, the account name or designation must be placed upon the memorandum for each transaction. In addition, only a qualified ROP may approve any changes in account names or designations. The ROP also must document the essential facts relied upon in approving the changes and maintain the record in a central location. A member would be required to preserve any account designation change documentation for a period of not less than three years, with the documentation preserved for the first two years in an easily accessible place, as the term "easily accessible place" is used in Exchange Act Rule 17a-4.<sup>29</sup> The Exchange believes the proposed rule would help to protect account name and designation information from possible fraudulent activity.<sup>30</sup>

Phlx Rule 1027(e) allows member organizations to exercise time and price discretion on orders for the purchase or sale of a definite number of options contracts in a specified security. The Exchange proposes to amend its Rule 1027(e) to limit the duration of this discretionary authority to the day it is granted, absent written authorization to the contrary. In addition, the proposed rule would require any exercise of time and price discretion to be reflected on the customer order ticket. The proposed one-day limitation would not apply to time and price discretion exercised for orders effected with or for an institutional account (as defined in the rule) pursuant to valid Good-Till-Cancelled instructions issued on a "not held" basis. The Exchange believes that investors will receive greater protection by clarifying the time such discretionary orders remain pending.<sup>31</sup>

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>32</sup> in general, and furthers the objectives of Section 6(b)(5), specifically,<sup>33</sup> in that it is designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest and promotes just and equitable principles of trade. The proposal would achieve this by enabling the Exchange to amend its rules to require member organizations to integrate the responsibility for supervision of a member organization's public customer options business into their overall

supervisory and compliance programs, and to strengthen member organizations' supervisory procedures and internal controls as they relate to a member's public customer options business.

## B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

## C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not solicit comments or receive any written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication on this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-Phlx-2008-53 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number *SR-Phlx-2008-53*. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

<sup>27</sup> See proposed Phlx Rule 1025(g)(v) which is modeled after NASD Rule 3013 and NYSE Rule 342.30(e).

<sup>28</sup> See proposed Phlx Rule 1025(b)(ii) which is modeled after NASD Rule 3110(i).

<sup>29</sup> See 17 CFR 240.17a-4.

<sup>30</sup> See proposed Phlx Rule 1025(b)(iii) which is modeled after NASD Rule 3110(j).

<sup>31</sup> See proposed Phlx Rule 1027(e) which is modeled after NASD Rule 2510(d)(1).

<sup>32</sup> 15 U.S.C. 78f(b).

<sup>33</sup> 15 U.S.C. 78f(b)(5).



comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2008-53 and should be submitted on or before August 12, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>34</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

[FR Doc. E8-16685 Filed 7-21-08; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58165; File No. SR-DTC-2008-03]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Establish a Fee Relating to DTC's Settlement Procedures for the Maturity of Money Market Instruments With Unknown Rates

July 15, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup> notice is hereby given that on May 30, 2008, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in

Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks to establish a fee that relates to DTC's settlement procedures for the maturity of Money Market Instruments ("MMI") with unknown rates ("Unknown Rate Maturities").

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>3</sup>

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC initiates MMI maturity processing automatically each morning by electronically sweeping all maturing positions of MMI CUSIPs from investors' custodian accounts and generating the appropriate maturity payments. The MMI then is delivered to the account of the appropriate Issuing Agent or Paying Agent (collectively, "IPA"). On the day of delivery, DTC debits the IPA's account in the amount of the maturity proceeds for settlement and credits the same amount of the maturity proceeds to the investor's custodian account for payment to the investor.

In order for DTC to process settlement for Unknown Rate Maturities the IPA currently is required to send notice to DTC by 6 p.m. (ET) on the day the amount of variable income or principal becomes known to the IPA, but in no event later than 3 p.m. (ET) on the day prior to maturity or periodic payment date. In certain circumstances, DTC may accept an IPA's notice after the applicable deadlines until 2:30 p.m. (ET) on the date of maturity. If no maturity rate is provided by 2:30 p.m.

(ET) on the date of maturity, then the maturity will roll-over to the next processing day. This rollover continues until a rate is provided. The process to monitor the resolution of payments on Unknown Rate Maturities is time-consuming because it involves, among other things, DTC verifying the IPA of the Unknown Rate Maturity, calling the IPA at minimum on a daily basis, and coordinating within DTC to get the issue resolved as quickly as possible.

Accordingly, DTC is proposing to implement a disincentive fee to encourage timely receipt of the appropriate maturity rates. DTC submits that this is an appropriate fee to assess in order to compensate for the operational expenses associated with monitoring the resolution of payments on Unknown Rate Maturities and expects such fee to serve as a disincentive to IPAs' delayed notice of the maturity rate. Under the proposed rule change, if the maturity rate is not populated in DTC's system by 2:30 p.m. (ET) on the date of maturity, DTC will charge a fee of \$5,000 on the maturity date and for each subsequent MMI business day, or part thereof, until the rate is submitted.<sup>4</sup> DTC has met with various industry organizations, all of whom support the implementation of this fee.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>5</sup> and the rules and regulations thereunder because the proposed change will deter late submission of maturity rates, thereby promoting prompt and accurate clearance and settlement of securities transactions.

##### B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

##### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not been solicited or received. DTC will notify the Commission of any written comments received by DTC.

<sup>34</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>4</sup> DTC also will report any pattern of late submission of maturity rates to the Commission.

<sup>5</sup> 15 U.S.C. 78q-1.



### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-DTC-2008-03 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-DTC-2008-03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 am and 3 pm.

Copies of such filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at [http://www.dtcc.com/downloads/legal/rule\\_filings/2008/dtc/2008-03.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2008/dtc/2008-03.pdf). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-2008-03 and should be submitted on or before August 12, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-16717 Filed 7-21-08; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58158; File No. SR-OCC-2007-20]

### Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the System for Theoretical Analysis and Numerical Simulations

July 15, 2008.

#### I. Introduction

On December 14, 2007, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-OCC-2007-20 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on February 12, 2008.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

#### II. Description

The proposed rule change permits the incorporation of certain forms of securities deposited as margin collateral into OCC's System for Theoretical Analysis and Numerical Simulations ("STANS") risk management methodology. The purpose of the proposed rule change is to more accurately measure the risk in clearing members' accounts and thereby permit

OCC to set margin requirements that more precisely reflect that risk. In connection with this rule change, it is also necessary to include additional flexibility in determining the amount of replacement collateral required when securities deposited as margin are withdrawn. In addition, because OCC believes that certain existing concentration limits and requirements regarding minimum share prices are no longer appropriately applied to securities that are underlying securities or to fund shares that track an index that is an underlying index for covered contracts, OCC is eliminating such requirements with respect to such securities.

*Overview of Rule Changes.* OCC will incorporate certain common stocks and ETFs (defined as "fund shares" in Article I of OCC's By-Laws) into the STANS margin calculation process.<sup>3</sup> STANS is a large-scale Monte Carlo-based risk management methodology used to measure risk associated with portfolios of cleared contracts. Currently, these forms of securities when deposited as collateral to satisfy margin requirements are priced on a nightly basis and are assigned a value equal to their end-of-day market price minus the haircut applicable to that form of collateral, an amount that varies according to asset type. While this method of valuing collateral has generally served OCC well in the past, it does not take into account the potential risk-reducing impact that the deposited collateral might have on a clearing member's portfolio. Under the rule change, cleared options positions and underlying securities in the forms indicated above will be analyzed as a single portfolio using STANS, thus providing a more accurate valuation of securities deposited as collateral in relation to the other positions in the account. The rule change will align risk management techniques utilized to manage market risk of options portfolios with those used to value margin deposits. There are two primary benefits expected from the rule change. First, margin requirements will be based on the risk of the combined portfolio that includes both cleared contracts and deposited collateral, thereby allowing the relevant intercorrelations of cleared contracts and deposited collateral to be taken into consideration rather than treating securities deposited as collateral as having fixed values. Second, the coverage provided by a

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> Securities Exchange Act Release No. 57270 (February 5, 2008), 73 FR 8098.

<sup>3</sup> For a description of STANS, refer to Securities Exchange Act Release No. 53322 (February 15, 2006) 71 FR 9403 (February 23, 2006) (File No. SR-OCC-2004-20).

particular asset class (e.g., shares of IBM common stock) will be based on the historical volatility of that particular asset rather than by taking a flat "haircut" rate across a much broader class of assets (e.g., 30% haircut for common stock). For the period from August 16, 2007, to September 10, 2007, OCC staff computed margin requirements for all existing accounts according to this proposed approach. The result showed an average daily reduction in risk margin requirements of approximately \$1.2 billion, or 5%, as compared to OCC's current approach. At the same time that average daily collateral requirements will be reduced, the STANS calculations will also measure and compensate for added risk arising where risks are positively correlated rather than offsetting.

OCC is also adding an exception to collateral minimum price and concentration limits with respect to certain securities deposited as collateral. Currently, eligible collateral securities deposited with OCC must (1) have a market value greater than \$10 per share and (2) be traded on a national securities exchange, the Nasdaq Global Market, or the Nasdaq Capital Market. Additionally, the aggregate value of margin attributed to a single security cannot exceed 10% of a clearing member's total margin requirement. These criteria were designed to limit deposits to liquid, readily marketable securities and to avoid concentrations of deposits in a single security. OCC is adding an exception to these eligibility and concentration requirements for securities that are deliverable upon exercise of a contract cleared by OCC or, in the case of ETFs, that track an index underlying cleared contracts whether or not the particular ETF is an underlying security. OCC believes that this exception will permit and encourage the use of collateral that closely hedges related options positions. The exception will apply only to the approximately 2,800 exchange-listed equity securities that currently underlie listed options. Thus, OCC's existing minimum value and concentration restrictions will continue to apply to the approximate 7,200 exchange-listed equity securities that do not underlie listed options.

OCC is also making a minor amendment to the current requirement that the aggregate value of margin attributed to a single security cannot exceed 10% of the total margin requirement in an account. The amendment will base the calculation on the clearing member's actual margin deposits rather than the clearing member's total margin requirement in the account. Thus, the requirement as

amended will limit the value given to deposits in any single security to no more than 10% of the market value of a member's aggregate margin deposits in the account. This test is very similar in purpose and effect to the current test, but OCC believes it will be much easier to administer than the current test when collateral is included in STANS.

In addition, OCC will need a different means for addressing substitutions of collateral where a security that has been valued in STANS is being replaced during the business day. STANS performs multiple portfolio revaluations during the business day using current prices of collateral and cleared contracts. While the revaluations include updated positions in cleared contracts reflecting intraday trading activity, they do not at present include updated collateral positions reflecting withdrawals and substitutions. In addition, it is operationally too intensive, given the complexity of the STANS methodology and the frequency of substitution requests, to recalculate the STANS requirement for each such collateral withdrawal/deposit. Although OCC intends ultimately to make further systems changes to address these issues in more efficient ways, OCC has developed an approach that provides the necessary protection to the clearing system by taking a conservative view of the estimated impact that a withdrawal/deposit would have on the member's requirement.

OCC will treat margin collateral substitutions and withdrawals in the same manner that substitutions and withdrawals of specific and escrow deposits are treated. In the case of a margin withdrawal or deposit, OCC will incorporate an adjustment factor, based on the historical volatility of the security, equal to the estimated impact (within the 99% confidence interval) of the security on the projected liquidating value of the account. For example, if a clearing member deposited \$300 in IBM stock and IBM is given a risk adjustment factor of 10%, the deposited stock would be given a value of \$270 ( $\$300 \times [100\% - 10\%]$ ) in intraday excess collateral value to be used against releases to account for the potential negative risk impact of adding the stock to the portfolio. If the clearing member then released \$200 of Google stock and Google is given a risk adjustment factor of 12%, the clearing member would be required to maintain \$224 ( $\$200 \times [100\% + 12\%]$ ) in excess collateral to account for the negative impact of removing Google from the portfolio.

*Changes to OCC's Rules to Implement the Foregoing Concepts.* OCC's Rule 601, "Margin Requirements," currently

states in paragraph (c) that margin assets may be incorporated into the Monte Carlo calculations as an alternative to valuing such assets under Rule 604, "Form of Margin Assets." OCC now proposes merely to add an Interpretation to Rule 601 to indicate that OCC is implementing this alternative to the extent that it will be incorporating common stocks and ETFs into the STANS calculation of expected net liquidating value. Rule 604(b)(4), which governs the deposit of equity and debt issues to satisfy margin requirements, would be amended to provide exceptions to the per share minimum price and concentration limits and to provide that concentration limits will be measured in relation to the aggregate margin on deposit rather than to the margin requirement in an account. Rule 604(b)(4) is also proposed to be amended to reflect the fact that Nasdaq is now registered as a national securities exchange. An Interpretation is proposed to be added to Rule 608, "Withdrawals of Margin," to give OCC the flexibility to adopt the interim method of dealing with collateral withdrawals and substitutions as described above. The proposed changes in Rules 609, "Intraday Margin," and 706(c), "Cross-Margining Settlement Procedures," would reflect minor conforming changes and nonsubstantive updates to streamline the rules and add flexibility.

OCC proposes to put all of the foregoing proposed rule changes into effect simultaneously upon appropriate notice to clearing members once systems changes needed for full implementation are in place. The published text of OCC's Rules would not be modified until that time although this rule change would be published as pending approval or approved but not yet implemented, as the case may be.

### III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.<sup>4</sup> The Commission approved OCC's STANS risk management methodology for the purpose of calculating clearing member margin in February 2006 and has monitored the results of the methodology through quarterly reports from OCC.<sup>5</sup> The proposed rule change to include certain common stocks and

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>5</sup> Securities Exchange Act Release No. 53322 (February 15, 2006), 71 FR 9403 (February 25, 2006) (File No. SR-OCC-2004-20).

fund shares deposited by OCC members as margin in the daily STANS risk calculation is consistent with the purpose of the methodology, which is to provide an accurate measure of the market risk in a clearing member's account. The proposed rule change also amends OCC's rules regarding the calculation of concentration limits and collateral substitution to allow OCC to more easily implement the inclusion of margin deposits in the STANS calculation. As noted above, OCC expects to collect approximately 5 percent less margin under the proposed rule change than it currently collects. However, this is because of the increased diversification benefit allowed by the risk measurement under STANS and not because of a decrease in OCC's risk tolerance in calculating margin. Accordingly, because the proposed rule change should not affect the purpose of the STANS methodology to provide OCC with sufficient collateral in the event a member becomes insolvent or otherwise fails to meet its obligations to OCC, it should assure the safeguarding of securities and funds which are in OCC's custody or control or for which it is responsible.

The proposed rule change also adds an exception to the collateral minimum price and concentration limits in OCC's rules for securities that are deliverable upon exercise of a contract cleared by OCC or, in the case of ETFs, that track an index underlying cleared contracts whether or not the particular ETF is an underlying security. The minimum price and concentration limits in OCC's rules are designed to assure that OCC will be able to collect sufficient collateral in the event it needs to liquidate securities deposited as margin. This type of liquidity risk should not apply if the security deposited as margin is deliverable upon exercise of the clearing member's cleared contracts or if the security is an exchange traded fund that tracks an index underlying the clearing member's cleared contracts. Accordingly, the proposed rule change to add this exception to the collateral minimum price and concentration limits should not affect OCC's ability to assure the safeguarding of securities and funds which are in OCC's custody or control or for which it is responsible.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in

particular Section 17A of the Act and the rules and regulations thereunder.<sup>6</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2007-20) be and hereby is approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

[FR Doc. E8-16687 Filed 7-21-08; 8:45 am]

**BILLING CODE 8010-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

#### In the Matter of Typhoon Touch Technologies, Inc.; Order of Suspension of Trading

July 18, 2008.

It appears to the Securities and Exchange Commission that the public interest and the protection of investors require a suspension of trading in the securities of Typhoon Touch Technologies, Inc., because there is a lack of current and accurate information concerning its securities. Questions have arisen regarding a recent increase in the share price from \$8 to \$25 following a 100 for one forward split and during a period when no material information about the company would explain such a price increase. Also, questions have been raised about the accuracy and adequacy of publicly-disseminated information concerning, among other things, the availability of shares for trading and delivery, and the current shareholders of the company. Typhoon Touch Technologies, Inc., is quoted on the Pink Sheets and the Over the Counter Bulletin Board under the ticker symbol TYTT.

The Commission is of the opinion that the public interest and the protection of the investors require a suspension of trading in securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EDT, July 18, 2008, through 11:59 p.m. EDT, on July 31, 2008.

<sup>6</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 08-1460 Filed 7-18-08; 1:25 pm]

**BILLING CODE 8010-01-P**

#### SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11264 and #11265]

#### Iowa Disaster Number IA-00015

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 8.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Iowa (FEMA-1763-DR), dated 05/27/2008.

*Incident:* Severe Storms, Tornadoes, and Flooding.

*Incident Period:* 05/25/2008 and continuing.

*Effective Date:* 07/15/2008.

*Physical Loan Application Deadline Date:* 09/29/2008.

*EIDL Loan Application Deadline Date:* 02/27/2009.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of Iowa, dated 05/27/2008, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 09/29/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. E8-16680 Filed 7-21-08; 8:45 am]

**BILLING CODE 8025-01-P**

#### SMALL BUSINESS ADMINISTRATION

#### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of Retraction or Reclassification of Waivers from the Nonmanufacturer Rule for Industry

Classifications that are not manufacturing.

**SUMMARY:** The U.S. Small Business Administration (SBA) is proposing the retraction or reclassification of waivers from the non-manufacturer rule that have been erroneously extended or granted to industry classifications that are not manufacturing industry classifications under the North American Industry Classification System (NAICS).

**DATES:** Comments must be submitted on or before August 15, 2008.

**ADDRESSES:** You may submit comments to Edith G. Butler, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416. A printout of approved class waivers can be found at [http://www.sba.gov/idc/groups/public/documents/sba\\_program\\_office/gc\\_approved.html](http://www.sba.gov/idc/groups/public/documents/sba_program_office/gc_approved.html).

**FOR FURTHER INFORMATION CONTACT:** Edith G. Butler, Program Analyst, by telephone at (202) 619-0422; by FAX at (202) 481-1788; or by e-mail at [Edith.butler@sba.gov](mailto:Edith.butler@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

For the purpose of waivers, a class of products is defined based on the Office of Management and Budget's NAICS codes and the General Services Administration's Product and Service Code Directory. Within each six-digit code are subdivisions of products that can be considered for waiver. A request for a waiver of a class of products should refer to a specific subdivision, or statement of product, within a six-digit code in one of these manuals. A waiver of the Nonmanufacturer Rule does not waive the entire class of products under a specific NAICS code. The class waiver

waives specific products within a subdivision within a NAICS code.

Any individual or organization (government agency, business, association, etc.) may request a waiver for a class of products. The request should be in writing, addressed to the Director for Government Contracting and should specifically state the class (or classes) of products for which the waiver is sought.

The SBA defines "class of products" based on a six digit coding system. According to 13 CFR 121.1202(d), Class of products is an individual subdivision within an NAICS Industry Number as established by the Office of Management and Budget in the NAICS Manual.

According to the NAICS Manual, the Manufacturing sector (31-33) comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufacturer products is considered manufacturing, except in cases where the activity is appropriately classified in Sector 23, Construction.

Manufacturing industries are classified under Sectors 31-33 of the NAICS code system. 13 CFR 121.201. SBA's regulations provide that "Procurements for supplies must be classified under the appropriate manufacturing NAICS code, not under the wholesale trade NAICS code." 13 CFR 121.404(a). A wholesaler or retailer can qualify as a small business on a manufacturing procurement by qualifying as a non-manufacturer. To qualify as a non-manufacturer, the retailer or wholesaler must supply the product of a small business unless a waiver has been granted. 13 CFR 121.406. A waiver can be granted if there are no small business manufacturers.

Thus, any solicitation for a manufactured product must have a manufacturing NAICS code, and SBA will use the manufacturing NAICS code to determine whether a waiver should be granted for a specific procurement. Further, in order to grant a class waiver for a particular product, SBA would use the manufacturing NAICS code to search for small business manufacturers, not a wholesale or retail NAICS code to search for retailers or wholesalers. Thus, any waiver from the non-manufacturer rule for a supply contract would be granted based on the applicable manufacturing NAICS code, and would apply to allow non-manufacturers, i.e., retailers or wholesalers, to qualify as small businesses on a small business program set-aside contract.

SBA is proposing to change the class waiver from the non-manufacturer rule for Product Service Code (PSC) 2620 (Tires and Tubes Pneumatic Aircraft) under NAICS codes 441320 (Tire Dealers) and 421130. NAICS 421130 was converted to NAICS code 423130 (Tire and Tube Merchant Wholesalers) when the government converted from the 1997 NAICS to the 2002 NAICS. NAICS 441320 is a retail NAICS code, and NAICS code 423130 is a wholesale NAICS code. The waiver from the non-manufacturer rule for PSC 2620 was improperly granted based on Standard Industrial Classification (SIC) code 5014 in 1992. (57 FR 6569, May 18, 1992). SIC code 5014 was a wholesale SIC code. The proper SIC code would have been SIC code 3011 (Tires and Inner Tubes), which corresponds to NAICS code 326211 (Tire Manufacturing (except Retreading)). Thus, for PSC 2620 we are proposing to change the corresponding NAICS code from NAICS 441320 and 421130 to NAICS code 326211.

On October 21, 2005, SBA proposed to waive the nonmanufacturer rule for Household Refrigerator Equipment. (70 FR 61322, November 15, 2005). SBA did not identify a PSC, and identified the applicable NAICS code as 335522, which does not exist. The proper manufacturing NAICS code would have been NAICS 335222, Household Refrigerator and Home Freezer Manufacturing. The proper PSC would be 7320, Kitchen Equipment & Appliances. However, when SBA finalized the waiver, it changed the NAICS code to 423620, which is a wholesaler NAICS code. (70 FR 69373, November 15, 2005). Thus, we are proposing to change the NAICS code corresponding to the waiver for Household Refrigerator Equipment, PSC 7320, to NAICS code 335222.

On September 26, 2005, SBA proposed to waive the nonmanufacturer rule for Commercial Refrigeration Equipment. (70 FR 56204, November 15, 2005). SBA identified the NAICS code as 423740, a wholesale NAICS code, and did not identify a PSC. SBA finalized the waiver on November 15, 2005. (70 FR 69372, November 15, 2005). Thus, we are proposing to waive the non-manufacturer rule for Commercial Refrigerator Equipment and identify the PSC as 4110, Refrigeration Equipment, under NAICS code 333415, Commercial Refrigeration Equipment Manufacturing.

On November 3, 2005, SBA proposed to waive the nonmanufacturer rule for office supplies, paper and toner. (70 FR 66889, January 12, 2006). SBA did not identify a PSC.

SBA identified the applicable NAICS codes as 424120, Stationary and Office Supplies Merchant Wholesalers; 339940, which does not exist; 325132, Synthetic Organic Dye and Pigment Manufacturing; 325992, Photographic Film, Paper, Plate, and Chemical Manufacturing; 322231, Die-Cut Paper and Paperboard Office Supplies Manufacturing; and 453210, Office Supplies and Stationary Stores. When SBA finalized the rule, it did not reference NAICS code 325132. (71 FR 2102, January 12, 2006). NAICS code 424120 is a wholesale code, NAICS code 453210 is a retail NAICS code, and 339940 does not exist, because there are more specific NAICS codes that describe products under that subsector. Thus, SBA is proposing to identify the applicable PSC as 7510, Office Supplies, and limit applicability to NAICS codes 325992 and 322231.

In Summary, the SBA is proposing to change the NAICS code for PSC 2620 (Tires and Tubes Pneumatic Aircraft) from NAICS codes 441320/421130 to 326211; Identify the waiver for Commercial Refrigeration Equipment as PSC 4110 (Refrigeration Equipment), and change the NAICS code from 423740 to 333415; change the NAICS code for the waiver for Household Refrigerator Equipment, PSC 7320, from NAICS 424120 to NAICS code 335222; and delete references to NAICS codes 453210, 339940, and 424120 from the waiver from the nonmanufacturer rule for Office Supplies, Paper & Toner.

The public is invited to provide comments to SBA on the proposed retraction or reclassification of products under the above mentioned class of NAICS codes within 15 days after date of publication in the **Federal Register**.

**Authority:** 15 U.S.C. 634.

Dated: July 15, 2008.

**Karen C. Hontz,**

*Director for Government Contracting.*

[FR Doc. E8-16681 Filed 7-21-08; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF STATE

[Public Notice 6302]

### Culturally Significant Objects Imported for Exhibition Determinations: "Transcendent Art: Icons from Yaroslavl, Russia"

**Summary:**

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and

Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition

"Transcendent Art: Icons from Yaroslavl, Russia," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Museum of Russian Art, Minneapolis, MN, from on or about September 20, 2008, until on or about January 24, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**For Further Information Contact:**

For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453-8048). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: July 15, 2008.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E8-16771 Filed 7-21-08; 8:45 am]

**BILLING CODE 4710-05-P**

## DEPARTMENT OF STATE

[Public Notice 6303]

### Culturally Significant Objects Imported for Exhibition Determinations: "Captured Emotions: Baroque Painting in Bologna 1575-1725"

**Summary:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Captured Emotions: Baroque Painting

in Bologna 1575-1725" to be displayed at The J. Paul Getty Museum, Los Angeles, California, imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit and additional objects at The J. Paul Getty Museum, Los Angeles, California, from on or about December 16, 2008, until on or about May 3, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**For Further Information Contact:** For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453-8050). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: July 14, 2008.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E8-16770 Filed 7-21-08; 8:45 am]

**BILLING CODE 4710-05-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Executive Committee of the Aviation Rulemaking Advisory; Meeting Cancellation

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of meeting cancellation.

**SUMMARY:** The FAA is issuing this notice to advise the public the July 23, 2008, meeting of the Executive Committee of the Aviation Rulemaking Advisory Committee (73 FR 36952, June 30, 2008) has been cancelled. The meeting will be rescheduled in a subsequent **Federal Register** notice.

#### FOR FURTHER INFORMATION CONTACT:

Gerri Robinson, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9678; fax (202) 267-5075; e-mail [Gerri.Robinson@faa.gov](mailto:Gerri.Robinson@faa.gov).

Issued in Washington, DC, on July 17, 2008.

**Pamela Hamilton-Powell,**

*Executive Director, Aviation Rulemaking Advisory Committee.*

[FR Doc. E8-16715 Filed 7-21-08; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-506 (Sub-No. 1X)]

#### **Sault Ste. Marie Bridge Company— Abandonment Exemption—In Dickinson County, MI**

Sault Ste. Marie Bridge Company (SSMB)<sup>1</sup> has filed a verified notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon an 0.64 mile rail line between mileposts 29.60 and 30.24 in Iron Mountain, Dickinson County, MI. The line traverses United States Postal Service Zip Code 49801.

SSMB has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line that would have to be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line is pending either with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 21, 2008, unless stayed pending reconsideration. Petitions to stay that do

not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 1, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 11, 2008, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to SSMB's representative: Thomas J. Healey, 17641 S. Ashland Ave., Homewood, IL 60430-1345.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

SSMB has filed both an environmental report and a historic report that address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 25, 2008. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), SSMB shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by SSMB's filing of a notice of consummation by July 22, 2009, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "<http://www.stb.dot.gov>."

Decided: July 16, 2008.

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is \$1,500, effective July 18, 2008. See 49 CFR 1002.2(f)(25).

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Anne K. Quinlan,**

*Acting Secretary.*

[FR Doc. E8-16735 Filed 7-21-08; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### **Senior Executive Service Performance Review Board**

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice.

**SUMMARY:** The Surface Transportation Board (STB) publishes the names of the persons selected to serve on its Senior Executive Service Performance Review Board (PRB).

**FOR FURTHER INFORMATION CONTACT:** Teresa M. Gauger, Director of Human Resources (202) 245-0340.

**SUPPLEMENTARY INFORMATION:** Title 5 U.S.C. 4312 requires that each agency implement a performance appraisal system making senior executives accountable for organizational and individual goal accomplishment. As part of this system, 5 U.S.C. 4314(c) requires each agency to establish one or more PRBs, the function of which is to review and evaluate the initial appraisal of a senior executive's performance by the supervisor and to make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on STB's PRB.

Leland L. Gardner, Director, Office of Economics, Environmental Analysis and Administration.

Matthew T. Wallen, Director, Office of Public Assistance, Governmental Affairs, and Enforcement.

Ellen D. Hanson, General Counsel David M. Konschnik, Director, Office of Proceedings.

Dated on July 16, 2008.

**Anne K. Quinlan,**

*Acting Secretary.*

[FR Doc. E8-16682 Filed 7-21-08; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF THE TREASURY

### **Internal Revenue Service; Proposed Collection; Comment Request for Form 8621**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

<sup>1</sup> SSMB is a Class III common carrier by rail and a wholly owned subsidiary of Wisconsin Central Transportation Corporation.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8621, Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

**SUPPLEMENTARY INFORMATION:** Title: Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.

*OMB Number:* 1545–1002.

*Form Number:* 8621.

*Abstract:* Form 8621 is filed by a U.S. shareholder who owns stock in a foreign investment company. The form is used to report income, make an election to extend the time for payment of tax, and to pay an additional tax and interest amount. The IRS uses Form 8621 to determine if these shareholders have correctly reported amounts of income, made the election correctly, and have correctly computed the additional tax and interest amount.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations and individuals.

*Estimated Number of Respondents:* 1,333.

*Estimated Time Per Respondent:* 31 hr. 31 min.

*Estimated Total Annual Burden Hours:* 42,003.

*The following paragraph applies to all of the collections of information covered by this notice:*

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information

displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2008.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E8–16641 Filed 7–21–08; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 3491

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3491, Consumer Cooperative Exemption Application.

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Consumer Cooperative Exemption Application.

*OMB Number:* 1545–1941.

*Form Number:* A cooperative uses Form 3491 to apply for exemption from filing information returns (Forms 1099–PATR) on patronage distributions of \$10 or more to any person during the calendar year.

*Current Actions:* There are no changes being made to the Form 3491 at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit, Individuals or households, and Farms.

*Estimated Number of Respondents:* 200.

*Estimated Time Per Respondent:* 44 minutes.

*Estimated Total Annual Burden Hours:* 148.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to



minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2008.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E8-16642 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[IA-62-93]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulation, IA-62-93 (TD 8688), Certain Elections Under the Omnibus Budget Reconciliation Act of 1993 (§§ 1.108-5, 1.163(d)-1, 1.1044(a)-1, and 1.6655(e)-1).

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202)622-3634, or through the Internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** Certain Elections Under the Omnibus Budget Reconciliation Act of 1993.

**OMB Number:** 1545-1421.

**Regulation Project Number:** IA-62-93 (TD 8688).

**Abstract:** These regulations established various elections enacted by the Omnibus Budget Reconciliation Act of 1993 (OBRA) and provided immediate interim guidance of the time and manner of making the elections. These regulations enable taxpayers to take advantage of various benefits provided by OBRA and the Internal Revenue Code.

**Current Actions:** There is no change to this existing regulation.

**Type of Review:** Extension of a currently approved collection.

**Affected Public:** Individuals or households and business or other for-profit organizations, and farms.

**Estimated Number of Respondents:** 410,000.

**Estimated Time Per Respondent:** 30 minutes.

**Estimated Total Annual Burden Hours:** 202,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments:** Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2008.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E8-16643 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[TD 8823]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG-209831-96 (TD 8823), Consolidated Returns—Limitations on the Use of Certain Losses and Deductions.

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this regulation should be directed to R. Joseph Durbala, (202) 622-3634, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** Consolidated Returns—Limitations on the Use of Certain Losses and Deductions.

**OMB Number:** 1545-1237.

**Regulation Project Number:** TD 8823.

**Abstract:** Section 1502 provides for the promulgation of regulations with respect to corporations that file consolidated income tax returns. These regulations amend the current regulations regarding the use of certain losses and deductions by such corporations.

**Current Actions:** There is no change to this existing regulation.

**Type of Review:** Extension of a currently approved collection.

**Affected Public:** Businesses or other for-profit organizations.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to



respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments:** Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2008.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E8-16644 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### **Proposed Collection; Comment Request for Forms 12339, 12339-A, and 12339-B**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms 12339, Internal Revenue Service Advisory Council Membership Application; 12339-A, Tax Check

Waiver; and 12339-B, Information Reporting Program Advisory Committee Membership Application.

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at (202) 622-3634, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

**SUPPLEMENTARY INFORMATION:** *Title:* Tax Check Waiver.

*OMB Number:* 1545-1791. Form Numbers: 12339, 12339-A, & 12339-B.

*Abstract:* Form 12339 and Form 12339-B were created to better solicit and maintain all of the applicant information for those interested in becoming members of these Advisory Councils.

Form 12339 must be completed by those individuals interested in applying for IRSAC. Form 12339-B must be completed by those interested in applying for IRPAC. Each form is submitted in conjunction with Form 12339-A.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, and businesses or other for-profit organizations.

*Estimated Number of Respondents:* 500.

*Estimated Time per Response:* 50 min.

*Estimated Total Annual Burden Hours:* 417.

*The following paragraph applies to all of the collections of information covered by this notice:*

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments:** Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of

public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2008.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E8-16645 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### **Proposed Collection; Comment Request for Forms 2290, 2290-SP, and 2290-FR**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2290, Heavy Highway Vehicle Use Tax Return, Form 2290-FR, Declaration d'Impot sur L'utilisation des Vehicules Lourds sur les Routes, and 2290-SP, Declaración del Impuesto sobre el Uso de Vehículos Pesados en las Carreteras.

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala

at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3634, or through the internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Heavy Highway Vehicle Use Tax Return.

*Abstract:* Forms 2290, 2290-SP, 2290-FR are used to compute and report the tax imposed by section 4481 on the highway use of certain motor vehicles. The information is used to determine whether the taxpayer has paid the correct amount of tax.

*Current Actions:* There are no changes to the burden relating to Form 2290 at this time.

*Type of Review:* Extension of a current OMB approval.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 1,219,000.

*Estimated Time per Respondent:* 42 hours, 52 minutes.

*Estimated Total Annual Burden Hours:* 27,548,640.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2008.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E8-16646 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Revenue Procedure 99-26

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 99-26, Secured Employee Benefits Settlement Initiative.

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of revenue procedure should be directed to Carolyn N. Brown, (202) 622-6688, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at [Carolyn.N.Brown@irs.gov](mailto:Carolyn.N.Brown@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Secured Employee Benefits Settlement Initiative.

*OMB Number:* 1545-1653.

*Revenue Procedure Number:* Revenue Procedure 99-26.

*Abstract:* Revenue Procedure 99-26 offers employers alternative 50 percent settlement options to settle cases in which they accelerated deductions for accrued employee benefits secured by letter of credit, bond, or other similar financial instruments. The purpose of this settlement initiative is to provide options for taxpayers and the IRS to expeditiously resolve these cases, thereby avoiding litigation of the cases in the future.

*Current Actions:* There are no changes being made to the revenue procedure at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 100.

*Estimated Time per Respondent:* 20 hours.

*Estimated Total Annual Burden Hours:* 2,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 11, 2008.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E8-16647 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 8404

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8404, Interest Charge on DISC-Related Deferred Tax Liability.

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at [Allan.M.Hopkins@irs.gov](mailto:Allan.M.Hopkins@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Interest Charge on DISC-Related Deferred Tax Liability.

*OMB Number:* 1545-0939.

*Form Number:* 8404.

*Abstract:* Shareholders of Interest Charge Domestic International Sales Corporations (IC-DISCs) use Form 8404 to figure and report an interest charge on their DISC-related deferred tax liability. The interest charge is required by Internal Revenue Code section 995(f). IRS uses Form 8404 to determine whether the shareholder has correctly figured and paid the interest charge on a timely basis.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations and individuals.

*Estimated Number of Responses:* 2,000.

*Estimated Time per Response:* 8 hrs., 48 min.

*Estimated Total Annual Burden Hours:* 17,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information

displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 14, 2008.

Allan Hopkins,

IRS Reports Clearance Officer.

[FR Doc. E8-16660 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[REG-118662-98]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulation, REG-118662-98 (TD 8873), New Technologies in Retirement Plans.

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3179, or through the Internet at [Allan.Hopkins@irs.gov](mailto:Allan.Hopkins@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* New Technologies in Retirement Plans.

*OMB Number:* 1545-1632.

*Regulation Project Number:* REG-118662.98.

*Abstract:* These regulations provide that certain notices and consents require in connection with distributions from retirement plans may be transmitted through electronic media. The regulations also modify the timing requirements for provision of certain distribution-related notices.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 375,000.

*Estimated Time per Respondent:* 1 hr.

*Estimated Total Hours:* 477,563.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 14, 2008.

Allan Hopkins,

IRS Reports Clearance Officer.

[FR Doc. E8-16661 Filed 7-21-08; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[REG-106876-00]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulation, REG-106876-00 Revision of Income Tax Regulations under Sections 897, 1445, and 6109 to require use of Taxpayer Identifying Numbers on Submission under the Section 897 and 1445 regulations.

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3179, or through the Internet at [Allan.M.Hopkins@irs.gov](mailto:Allan.M.Hopkins@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Revision of Income Tax Regulations under Section 897, 1445,

and 6109 to require use of Taxpayer Identifying Numbers on Submission under the Section 897 and 1445 regulations.

*OMB Number:* 1545-1797.

*Regulation Project Number:* REG-106876-00.

*Abstract:* The collection of information relates to applications for withholding certificates under Treas. Reg-1.1445-3 to be filed with the IRS with respect to (1) dispositions of U.S. real property interests that have been used by foreign persons as a principle residence within the prior 5 years and excluded from gross income under section 121 and (2) dispositions of U.S. real property interests by foreign persons in deferred like kind exchanges that qualify for nonrecognition under section 1031.

*Current Actions:* There are no changes to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households and Business or other for-profit.

*Estimated Total Annual Reporting Burden:* 600.

*Estimated Average Annual Burden per Respondent:* 4.

*Estimated Number of Respondents:* 150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 14, 2008.

Allan Hopkins,

IRS Reports Clearance Officer.

[FR Doc. E8-16662 Filed 7-21-08; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Revenue Procedure 2002-43

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2002-43, Determination of Substitute Agent for a Consolidated Group.

**DATES:** Written comments should be received on or before September 22, 2008 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of revenue procedure should be directed to Carolyn N. Brown, (202) 622-6688, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at [Carolyn.N.Brown@irs.gov](mailto:Carolyn.N.Brown@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Determination of Substitute Agent for a Consolidated Group.

*OMB Number:* 1545-1793.

*Revenue Procedure Number:* Revenue Procedure 2002-43.

*Abstract:* Revenue Procedure 2002-43 provides any instructions that apply to any designation of a substitute agent, notification of the existence of a default substitute agent, a request for the designation of a substitute agent, and request for replacement of a previously designated substitute agent. The

instructions also provide for the automatic approval of requests by a terminating common parent to designate its qualifying successor as a substitute agent.

*Current Actions:* There are no changes being made to the revenue procedure at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 200.

*Estimated Average Time per Respondent:* 2 hours.

*Estimated Total Annual Burden Hours:* 400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 11, 2008.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E8-16663 Filed 7-21-08; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, September 2, 2008.

**FOR FURTHER INFORMATION CONTACT:** Sallie Chavez at 1-888-912-1227 or 954-423-7979.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel will be held Tuesday, September 2, 2008, at 2:00 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1-888-912-1227 or 954-423-7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1-888-912-1227 or 954-423-7977, or you can post comments to the Web site: <http://www.improveirs.org>.

The agenda will include: Various IRS issues.

July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. E8-16653 Filed 7-21-08; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, September 16, 2008.

**FOR FURTHER INFORMATION CONTACT:** Audrey Y. Jenkins at 1-888-912-1227 or 718-488-2085.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 1 Taxpayer Advocacy Panel will be held Tuesday, September 16, 2008, at 9 a.m., Eastern Time via a telephone conference call. For more information or to confirm attendance, notification if intending to attend the meeting must be made with Audrey Y. Jenkins at 1-888-912-1227 or 718-488-2085. If you would like to have the TAP consider a written statement, please write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can post comments to the Web site: <http://www.improveirs.org>.

The agenda will include various IRS issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. E8-16648 Filed 7-21-08; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Wednesday, September 17, 2008.

**FOR FURTHER INFORMATION CONTACT:** Sallie Chavez at 1-888-912-1227, or 954-423-7979.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 2 Taxpayer Advocacy Panel will be held Wednesday, September 17, 2008, at 2:30 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1-888-912-1227 or 954-423-7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1-888-912-1227 or 954-423-7979, or post comments to the Web site: <http://www.improveirs.org>.

The agenda will include the following: Various IRS issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16655 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and the Territory of Puerto Rico)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Monday, September 15, 2008.

**FOR FURTHER INFORMATION CONTACT:** Sallie Chavez at 1-888-912-1227, or 954-423-7979.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 3 Taxpayer Advocacy Panel will be held Monday, September 15, 2008, at 12:30 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1-888-912-1227 or 954-423-7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1-888-912-1227 or 954-423-7979, or post comments to the Web site: <http://www.improveirs.org>.

The agenda will include: Various IRS issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16654 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Area 4 Taxpayer Advocacy Panel (Including the States of Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, and Wisconsin)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Area 4 Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, September 16, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Delzer at 1-888-912-1227, or (414) 231-2360.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 4 Taxpayer Advocacy Panel will be held Tuesday, September 16, 2008, at 1 p.m., Central Time via a telephone conference call. You can submit written comments to

the panel by faxing the comments to (414) 231-2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203-2221, or you can contact us at <http://www.improveirs.org>. Please contact Mary Ann Delzer at 1-888-912-1227 or (414) 231-2360 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16678 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted via a telephone conference call. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, September 9, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Delzer at 1-888-912-1227, or (414) 231-2360.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Tuesday, September 9, 2008, at 9:30 a.m. Central Time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 231-2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203-2221, or you can contact us at <http://www.improveirs.org>. Please contact Mary Ann Delzer at 1-888-912-1227 or (414) 231-2360 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16679 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming)**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Area 6 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, September 2, 2008.

**FOR FURTHER INFORMATION CONTACT:** Dave Coffman at 1-888-912-1227, or 206-220-6096.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Tuesday, September 2, 2008, from 1 p.m. Pacific Time to 2:30 p.m. Pacific Time, via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1-888-912-1227 or 206-220-6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W-406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1-888-912-1227 or 206-220-6096, or you can contact us at <http://www.improveirs.org>.

The agenda will include the following: Various IRS issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16657 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Area 7 committee of the Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Wednesday, September 17, 2008.

**FOR FURTHER INFORMATION CONTACT:** Janice Spinks at 1-888-912-1227 or 206-220-6096.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Wednesday, September 17, 2008, at 2 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1-888-912-1227 or 206-220-6096, or write to Janice Spinks, TAP Office, 915 2nd Avenue, MS W-406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Janice Spinks. Miss Spinks can be reached at 1-888-912-1227 or 206-220-6096, or you can contact us at <http://www.improveirs.org>.

The agenda will include the following: Various IRS issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16651 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via conference call. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Wednesday, September 3, 2008.

**FOR FURTHER INFORMATION CONTACT:** Patricia Robb at 1-888-912-1227 or (414) 231-2360.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, September 3, 2008, at 2 p.m. Eastern Time via a conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call 1-888-912-1227 or (414) 231-2360, or write Patricia Robb, TAP Office, MS-1006-MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203-2221, or FAX to (414) 231-2363, or you can contact us at <http://www.improveirs.org>. For information to join the Joint Committee meeting, contact Patricia Robb at the above number.

The agenda will include the following: discussion of issues and responses brought to the Joint Committee, office report, and discussion of annual meeting.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16670 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****Open Meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee of the Taxpayer Advocacy Panel**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Thursday, September 11, 2008.



**FOR FURTHER INFORMATION CONTACT:**

Marisa Knispel at 1-888-912-1227 or (718) 488-3557.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee will be held Thursday, September 11, 2008, at 2 p.m. Eastern Time via a telephone conference call. You can submit written comments to the panel by faxing to (718) 488-2062, or by mail to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can contact us at <http://www.improveirs.org>. Public comments will also be welcome during the meeting. Please contact Marisa Knispel at 1-888-912-1227 or (718) 488-3557 for additional information.

The agenda will include the following: Various IRS Issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16649 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Wednesday, September 10, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Audrey Y. Jenkins at 1-888-912-1227 or 718-488-2085.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be held Wednesday, September 10, 2008, from 1 to 2 p.m. Eastern Time via a telephone conference call. The public is invited to

make oral comments. Individual comments will be limited to 5 minutes. For information or to confirm attendance, notification of intent to attend the meeting must be made with Audrey Y. Jenkins. Ms. Jenkins may be reached at 1-888-912-1227 or (718) 488-2085. Send written comments to Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post comments to the Web site: <http://www.improveirs.org>. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance.

The agenda will include various IRS issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16650 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, September 9, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Marisa Knispel at 1-888-912-1227 or (718) 488-3557.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, September 9, 2008, at 2 p.m. Eastern Time via a telephone conference call. You can submit written comments to the panel by faxing to (718) 488-2062, or by mail to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can contact us at <http://www.improveirs.org>. Public comments will also be welcome during the meeting. Please contact Marisa Knispel at 1-888-912-1227 or (718) 488-3557 for additional information.

The agenda will include the following: Various VITA Issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16672 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****Open Meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, September 23, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Dave Coffman at 1-888-912-1227 or 206-220-6096.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be held Tuesday, September 23, 2008, from 9 a.m. Pacific Time to 10:30 a.m. Pacific Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1-888-912-1227 or 206-220-6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W-406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1-888-912-1227 or 206-220-6096, or you can contact us at <http://www.improveirs.org>.

The agenda will include the following: Various IRS issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*  
[FR Doc. E8-16656 Filed 7-21-08; 8:45 am]

**BILLING CODE 4830-01-P**



**DEPARTMENT OF THE TREASURY****Internal Revenue Service****Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Wednesday, September 17, 2008.

**FOR FURTHER INFORMATION CONTACT:** Sallie Chavez at 1-888-912-1227, or 954-423-7979.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Wednesday, September 17, 2008, at 12:30 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1-888-912-1227 or 954-423-7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1-888-912-1227 or 954-423-7979, or post comments to the Web site: <http://www.improveirs.org>.

The agenda will include: Various IRS issues.

Dated: July 11, 2008.

**Roy L. Block,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. E8-16652 Filed 7-21-08; 8:45 am]

**BILLING CODE** 4830-01-P

**DEPARTMENT OF THE TREASURY****United States Mint****Privacy Act of 1974; Systems of Records**

**AGENCY:** United States Mint, Treasury.

**ACTION:** Notice of systems of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the United States Mint, Treasury, is publishing its inventory of Privacy Act systems of records.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB), Circular No. A-130, the United States Mint has completed a review of its Privacy Act systems of records notices to identify changes that will more accurately describe these records. The systems of records were last published in their entirety on June 13, 2005, at 70 FR 34178-34185.

The changes throughout the document are editorial in nature and consist principally of a changing the name of the Treasury bureau from "U.S. Mint" to the "United States Mint," clarification as to the types of records in United States Mint .005, a change to the title of United States Mint .009. The alterations to United States Mint .009 published on January 30, 2007, at 72 FR 4325 have also been incorporated.

On May 22, 2007, the Office of Management and Budget (OMB) issued Memorandum M-07-16 entitled "Safeguarding Against and Responding to the Breach of Personally Identifiable Information." It required agencies to publish the routine use recommended by the President's Identity Theft Task Force. As part of that effort, the Department published the notice of the proposed routine use on October 3, 2007, at 72 FR 56434, and it was effective on November 13, 2007. The new routine use has been added to each United States Mint system of records below.

Department of the Treasury regulations require the Department to publish the existence and character of all systems of records every three years (31 CFR 1.23(a)(1)). The United States Mint has leveraged this requirement to incorporate the review of its current holding of personally identifiable information required by M-07-16. With respect to its inventory of Privacy Act Systems of records, the United States Mint has determined that the information contained in its systems of records is accurate, timely, relevant, complete, and is the minimum necessary to maintain the proper performance of a documented agency function.

**Systems Covered by This Notice**

This notice covers all systems of records adopted by the United States Mint up to January 1, 2008. The systems

notices are reprinted in their entirety following the Table of Contents.

Dated: July 11, 2008.

**Elizabeth Cuffe,**

*Deputy Assistant Secretary for Privacy and Treasury Records.*

**Table of Contents****United States Mint**

- U.S. MINT .001—Cash Receivable Accounting Information System.
- U.S. MINT .003—Employee and Former Employee Travel & Training Accounting Information System.
- U.S. MINT .004—Occupational Safety and Health, Accident and Injury Records, and Claims for Injuries or Damage Compensation Records.
- U.S. MINT .005—Employee-Supervisor Performance Evaluation, Counseling, and Time and Attendance Records.
- U.S. MINT .007—General Correspondence.
- U.S. MINT .008—Employee Background Investigations Files.
- U.S. MINT .009—Retail Sales System (RSS), Customer Mailing List, Order Processing Record for Coin Sets, Medals and Numismatic Items, and Records of Undelivered Orders, Product Descriptions, Availability and Inventory [formerly: Mail-order and Catalogue Sales System (MACS), Customer Mailing List, Order Processing Record for Coin Sets, Medals and Numismatic Items, and Records of Undelivered Orders, Product Descriptions, Availability and Inventory].
- U.S. MINT .012—Grievances. Union/Agency Negotiated Grievances; Adverse Performance Based Personnel Actions; Discrimination Complaints; Third Party Actions United States Mint.

**TREASURY/UNITED STATES MINT .001****SYSTEM NAME:**

Cash Receivable Accounting Information System—Treasury/United States Mint.

**SYSTEM LOCATION:**

- (1) United States Mint, 801 9th Street, NW., Washington, DC 20220;
- (2) United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;
- (3) United States Mint, 320 West Colfax Avenue, Denver, CO 80204;
- (4) United States Mint, 155 Hermann Street, San Francisco, CA 94102;
- (5) United States Mint, West Point, NY 10996;
- (6) United States Bullion Depository, Fort Knox, KY 40121.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees and former employees of the United States Mint. Members of the public and United States Mint employees who have purchased numismatic items from United States Mint sales outlets.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Receivables due from United States Mint employees, former employees and general public for lost Government property, salary overpayments, and cash sales of over-the-counter numismatic items; and (2) Receivables due from United States Mint employees and former employees who have outstanding travel advances and/or salary advances, and/or leave advances (cash equivalents).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 5537 and 31 U.S.C. 5111(a)(3).

**PURPOSE(S):**

The purpose of this system is to permit the United States Mint to track and record the creation and payments of money owed to the United States Mint.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Accounting offices, managers, supervisors and government officials pertaining to cash receivables and debts owed the Government;

(2) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(3) A Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(4) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(5) Foreign governments in accordance with formal or informal international agreements;

(6) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(7) The news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(8) Unions recognized as exclusive bargaining representatives under the

Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(9) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Paper documents and electronic records.

**RETRIEVABILITY:**

Name or number substitute.

**SAFEGUARDS:**

Storage in filing cabinets with access by authorized accounting personnel.

**RETENTION AND DISPOSAL:**

General records control schedule, GAO rules and regulations, United States Mint Records Control Schedule. Records are destroyed in accordance with National Archives and Records Administration regulations.

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) Chief Financial Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220;

(2) Financial Manager, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) Financial Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) Financial Manager, United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) Chief, Accounting Division, United States Mint, West Point, NY 10996;

(6) Administrative Officer, United States Bullion Depository, Fort Knox, KY 40121.

**NOTIFICATION PROCEDURE:**

Requests from individuals wishing to be notified if they are named in this system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "SYSTEM MANAGER(s)" above).

Inquiries may be made in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix H. Inquiries should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

The individual must submit a written request containing identification such as: (a) Employee identification; (b) Driver's license; (c) Other means of identification, including social security number and date of birth.

**RECORD ACCESS PROCEDURES:**

See "Notification Procedure" above.

**CONTESTING RECORD PROCEDURES:**

See "NOTIFICATION PROCEDURE" above.

**RECORD SOURCE CATEGORIES:**

United States Mint employees and appropriate agency officials.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**TREASURY/UNITED STATES MINT .003****SYSTEM NAME:**

Employee and Former Employee Travel and Training Accounting Information System—Treasury/United States Mint.

**SYSTEM LOCATION:**

(1) United States Mint, 801 9th Street, NW., Washington, DC 20220;

(2) United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) United States Mint, West Point, NY 10996;

(6) United States Bullion Depository, Fort Knox, KY 40121.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees and former employees of the United States Mint who have engaged in travel and training.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

(1) Schedule of Payments generated from the Electronic Certification System (ECS) with supporting documents such

as: (a) SF 1012 Travel Voucher; (b) SF 1038 Application and Account for Advance of Funds; (2) Travel Authorities; (3) SF-182, Request, Authorization, Agreement and Certification of Training.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**  
5 U.S.C. Chapters 41 and 57.

**PURPOSE(S):**

The purpose of this system is to permit the United States Mint to track and record the creation and payments of travel and training advances owed to the United States Mint.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Accounting offices, managers, supervisors and government officials pertaining to cash receivables and debts owed the Government;

(2) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(3) A Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(4) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(5) Foreign governments in accordance with formal or informal international agreements;

(6) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(7) The news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(8) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(9) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(10) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper documents and electronic records.

**RETRIEVABILITY:**

Name or number substitute (social security number, authority number).

**SAFEGUARDS:**

Stored in filing cabinets with access by authorized accounting personnel.

**RETENTION AND DISPOSAL:**

General Records Control Schedule, GAO rules and regulations, United States Mint Records Control Schedule are destroyed in accordance with National Archives and Records Administration regulations.

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) Chief Financial Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220;

(2) Financial Manager, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) Financial Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) Financial Manager, United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) Chief, Accounting Division, United States Mint, West Point, NY 10996;

(6) Administrative Officer, United States Bullion Depository, Fort Knox, KY 40121.

**NOTIFICATION PROCEDURE:**

Requests from individuals wishing to be notified if they are named in this system of records, or seeking access to

any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "System Manager(s)" above). Inquiries may be made in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix H. Inquiries should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

The individual must submit a written request containing identification such as: (a) Employee identification; (b) Driver's license; (c) Other means of identification, including social security number and date of birth.

**RECORD ACCESS PROCEDURES:**

See "Notification Procedure" above.

**CONTESTING RECORD PROCEDURES:**

See "Notification Procedure" above.

**RECORD SOURCE CATEGORIES:**

United States Mint employees and appropriate agency officials.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**TREASURY/UNITED STATES MINT .004**

**SYSTEM NAME:**

Occupational Safety and Health, Accident and Injury Records, and Claims for Injuries or Damage Compensation Records—Treasury/United States Mint.

**SYSTEM LOCATION:**

(1) United States Mint, 801 9th Street, NW., Washington, DC 20220;

(2) United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106.

(3) United States Mint, 320 West Colfax Avenue, Denver, CO 80204.

(4) United States Mint, 155 Hermann Street, San Francisco, CA 94102.

(5) United States Mint, West Point, NY 10996.

(6) United States Bullion Depository, Fort Knox, KY 40121.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

United States Mint employees, former employees and members of the public.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Accident/Injury/Illness Records; Motor Vehicle Accident Data; Claims Against the Government, and Operators Training/Licensing.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. Ch. 81; 29 U.S.C. 668; 29 CFR 1910; E.O. 12196, 28 U.S.C. 2680 et seq.;

31 U.S.C. 3701 and 3721; and 31 CFR parts 3 and 4.

**PURPOSE(S):**

The purpose of this system is to permit the United States Mint to more effectively and efficiently process and manage claims, and to provide statistics that allow us to focus our resources in order to continually improve the safety of our workforce, work environment, and equipment.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(2) A Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(4) Foreign governments in accordance with formal or informal international agreements;

(5) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) The news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(7) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(8) Physicians providing medical services or advice to Mint management and/or employees, or to private physicians of Mint employees, for the purpose of assisting in making medical diagnoses or treatment;

(9) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has

been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper documents and electronic records.

**RETRIEVABILITY:**

By name, social security number, date or location.

**SAFEGUARDS:**

Locked file cabinets available to authorized personnel only, password required.

**RETENTION AND DISPOSAL:**

Records are retained in accordance with General Records Control Schedules; DOL, OSHA; EPA; and United States Mint Records Control Schedules; are destroyed in accordance with National Archives and Records Administration rules and regulations.

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) Assistant Director for Human Resources, Associate Director for Protection, Safety Officer, Treasury Department, United States Mint, 801 9th Street, NW., Washington, DC 20220;

(2) Human Resources Officer and Safety Officer, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) Human Resources Officer, United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) Human Resources Officer and Safety Officer, United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) Administrative Officer, United States Mint, West Point, NY 10996;

(6) Administrative Officer, United States Bullion Depository, Fort Knox, KY 40121.

**NOTIFICATION PROCEDURE:**

Requests from individuals wishing to be notified if they are named in this system of records, or seeking access to

any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "System Manager(s)" above). Inquiries may be made in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix H. Inquiries should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

The individual must submit a written request containing identification such as: (a) Employee identification; (b) Driver's license; (c) Other means of identification, including social security number and date of birth.

**RECORD ACCESS PROCEDURES:**

See "Notification Procedure" above.

**CONTESTING RECORD PROCEDURES:**

See "Notification Procedure" above.

**RECORD SOURCE CATEGORIES:**

Employees, supervisors, medical staff, general public, and visitors to the facilities of the United States Mint.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**TREASURY/UNITED STATES MINT .005**

**SYSTEM NAME:**

Employee—Supervisor Performance Evaluation, Counseling and Time and Attendance Records—Treasury/United States Mint.

**SYSTEM LOCATION:**

(1) United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(2) United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(3) United States Mint, 801 9th Street, NW., Washington, DC 20220;

(4) United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(5) United States Mint, West Point, NY;

(6) United States Bullion Depository, Fort Knox, KY 40121.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

United States Mint employees and former employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information necessary for managers and supervisors to effectively carry out supervisory responsibilities. Included are such records as: copies of personnel actions, performance appraisals, quarterly reviews, disciplinary actions, overtime reports, tardiness reports, work assignments, AWS request forms,

telecommute agreements, training reports, training requests, applications for employment, home addresses, phone numbers, leave reports, leave requests, employee awards. (Supervisors maintain varying combinations of the above records. Some supervisors may maintain all or none of the above records depending upon the nature and size of the operation or organization and the number of individuals supervised.)

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301 and FPM Supplement 990—1, Section 3.

**PURPOSE(S):**

The purpose of this system is to permit the United States Mint to: maintain performance records used to support awards, promotions, performance-based actions, training and other personnel actions, and to track and evaluate performance based upon the accomplishments of each employee; and to accurately calculate employee leave accruals, track usage, compensate separating employees with lump sum entitlements, and to bill employees who owe payment for leave taken in excess of their leave balance.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(2) A Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(4) Foreign governments in accordance with formal or informal international agreements;

(5) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) The news media in accordance with guidelines contained in 28 CFR

50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(7) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(8) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper documents maintained in folders and electronic records.

**RETRIEVABILITY:**

By name.

**SAFEGUARDS:**

Stored in file cabinets, desks, and computer files of supervisors.

**RETENTION AND DISPOSAL:**

Retained as long as employee is under their supervision.

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) Associate and Assistant Directors and Director's Staff, United States Mint, 801 9th Street, NW., Washington, DC 20220;

(2) Plant Manager, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;

(3) Plant Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204;

(4) Plant Manager, United States Mint, 155 Hermann Street, San Francisco, CA 94102;

(5) Plant Manager, United States Mint, West Point, NY 10996;

(6) Officer-in-Charge, United States Bullion Depository, Fort Knox, KY 40121.

**NOTIFICATION PROCEDURE:**

Requests from individuals wishing to be notified if they are named in this

system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "System Manager(s)" above). Inquiries may be made in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix H. Inquiries should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

The individual must submit a written request containing identification such as an employee identification and or driver's license.

**RECORD ACCESS PROCEDURES:**

See "Notification Procedure" above.

**CONTESTING RECORD PROCEDURES:**

See "Notification Procedure" above.

**RECORD SOURCE CATEGORIES:**

Employees, previous employers, and appropriate agency officials.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**TREASURY/UNITED STATES MINT .007**

**SYSTEM NAME:**

General Correspondence—Treasury/United States Mint.

**SYSTEM LOCATION:**

United States Mint, 801 9th Street, NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Members of the public, Members of Congress, United States Mint officials and officials from other Federal agencies.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Incoming correspondence and replies pertaining to the mission, function and operation of the United States Mint.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. 5131 and 5132.

**PURPOSE(S):**

The purpose of this system is to permit the United States Mint to respond effectively and in a timely manner to the correspondence that the agency receives on many issues from its various stakeholders, including Members of Congress and the general public.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(2) A Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(4) Foreign governments in accordance with formal or informal international agreements;

(5) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) The news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(7) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(8) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper documents and electronic records.

**RETRIEVABILITY:**

By name (limited retrievability by subject and/or control number).

**SAFEGUARDS:**

Maintained in limited access area available only to appropriate agency officials.

**RETENTION AND DISPOSAL:**

In accordance with the National Archives and Records Administration's General Records Control Schedule and the United States Mint Records Control Schedule. Destroyed in accordance with National Archives and Records Administration regulation.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Executive Secretariat, United States Mint, 801 9th Street, NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Requests from individuals wishing to be notified if they are named in this system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "System Manager(s)" above). Inquiries may be made in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix H. Inquiries should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

**The individual must submit a written request containing his or her name.**

**RECORD ACCESS PROCEDURES:**

See "Notification Procedure" above.

**CONTESTING RECORD PROCEDURES:**

See "Notification Procedure" above.

**RECORD SOURCE CATEGORIES:**

The general public, Members of Congress and Federal officials.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**TREASURY/UNITED STATES MINT .008**

**SYSTEM NAME:**

Employee Background Investigations Files—Treasury/United States Mint.

**SYSTEM LOCATION:**

United States Mint, 801 9th Street, NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

United States Mint employees and members of the public suspected of criminal misconduct against the United States Mint.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name of individual, location of United States Mint facility, and reports by security personnel of the United States Mint Police.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Title 18 U.S.C.

**PURPOSE(S):**

The purpose of this system is to permit the United States Mint to collect and maintain background investigation records on potential applicants, and current Mint employees and contractors for issuance of security clearances, access to United States Mint facilities or other administrative reasons.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(2) A Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(4) Foreign governments in accordance with formal or informal international agreements;

(5) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(6) The news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(7) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(8) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has

been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper documents.

**RETRIEVABILITY:**

By name.

**SAFEGUARDS:**

Files are kept in a combination locked file cabinet in an area accessible to authorized agency officials.

**RETENTION AND DISPOSAL:**

Retained in accordance with United States Mint Records Control Schedule; are destroyed in accordance with National Archives and Records Administration rules and regulations.

**SYSTEM MANAGER(S) AND ADDRESS:**

Office of Protection, United States Mint, 801 9th Street, NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Requests from individuals wishing to be notified if they are named in this system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "System Manager(s)" above). Inquiries may be made in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix H. Inquiries should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

The individual must submit a written request containing identification such as: (a) Employee identification; (b) Driver's license; (c) Other means of identification, including social security number and date of birth.

**RECORD ACCESS PROCEDURES:**

See "Notification Procedure" above.

**CONTESTING RECORD PROCEDURES:**

See "Notification Procedure" above.

**RECORD SOURCE CATEGORIES:**

United States Mint and other law enforcement officials.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

As authorized by 5 U.S.C. 552a (k)(2); this system is exempt from the following provisions, subsections (c)(3), (d), (e)(1); (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a.

**TREASURY/UNITED STATES MINT .009**

**SYSTEM NAME:**

Retail Sales System (RSS), Customer Mailing List, Order Processing Record for Coin Sets, Medals and Numismatic Items, and records of undelivered orders, product descriptions, availability and inventory—Treasury/United States Mint.

**SYSTEM LOCATION:**

United States Mint, 801 9th Street, NW., Washington, DC 20220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Members of the public.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names, addresses, phone numbers, e-mail addresses, order history of customers purchasing numismatic items, of individuals who wish to receive notification of numismatic offerings by the United States Mint, and of individuals requesting information and promotional materials (and their intended use of requested materials and information).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. 5111, 5112, 5132, 5136, and 31 CFR part 92.

**PURPOSE(S):**

The purpose of this system is to permit the United States Mint to: maintain a mailing list of customers and interested parties to provide continuous communication and/or promotional materials about existing and upcoming numismatic product offerings, circulating coins and activities; record and maintain records of customer, interested party and order information and requests for promotional materials, and to capture orders through each stage of the order life cycle; research and resolve orders that were not successfully delivered to customers and interested parties; and maintain a list of its products and to monitor and maintain product and promotional material inventory levels to meet customer and interested party demand while remaining within legislatively-mandated mintage levels as applicable.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Accounting offices, managers, supervisors and government officials pertaining to cash receivables and debts owed the Government;

(2) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(3) A Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(4) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(5) Foreign governments in accordance with formal or informal international agreements;

(6) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(7) The news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(8) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

(9) Contractors performing work under a contract or agreement for the Federal government, when necessary to accomplish an agency function related to this system of records, in compliance with the Privacy Act of 1974, as amended;

(10) Appropriate agencies, entities, and persons when (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Mint has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the

Mint or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Mint's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper documents and electronic records.

**RETRIEVABILITY:**

Name, address, phone number, customer number or order number, order date, whether or not the account is 'flagged' (such as due to an unusual quantity or an order requiring verification for processing and completion), shipment tracking number, and any internal identification number that may be assigned to the request.

**SAFEGUARDS:**

CRT, password protection; only designated persons may request computer generated reports. Access to any information pertaining to any individual is limited to only those individuals requiring the information to accommodate handling of transactions with the customers. Separation of functions; source documents maintained in one division and programming systems in another.

**RETENTION AND DISPOSAL:**

In accordance with the National Archives and Records Administration General Records Control Schedule and the United States Mint Records Control Schedule; are destroyed in accordance with National Archives and Records Administration regulations. Customer names and addresses are maintained as long as they are active.

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Director for Sales and Marketing, United States Mint, 801 9th Street, NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Requests from individuals wishing to be notified if they are named in this system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the head of the organizational unit having immediate custody of the records (See "System Manager(s)" above). Inquiries may be made in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix H. Inquiries should

be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

The individual must submit a written request containing the order number as provided on the order card or copy of both sides of canceled check; customer number which appears on pre-printed order cards or on face of check.

**RECORD ACCESS PROCEDURES:**

See "Notification Procedure" above.

**CONTESTING RECORD PROCEDURES:**

See "Notification Procedure" above.

**RECORD SOURCE CATEGORIES:**

Members of the public and appropriate government officials.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**Treasury/United States Mint .012**

**SYSTEM NAME:**

Grievances. Union/Agency Negotiated Grievances; Adverse Performance Based Personnel Actions; Discrimination Complaints; Third Party Actions—Treasury/United States Mint.

**SYSTEM LOCATION:**

- (1) United States Mint, 801 9th Street, NW., Washington, DC 20220;
- (2) United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106;
- (3) United States Mint, 320 West Colfax Avenue, Denver, CO 80204;
- (4) United States Mint, 155 Hermann Street, San Francisco, CA 94102;
- (5) United States Mint, West Point, NY 10996.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees and former employees of the United States Mint.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system of records contains information or documents relating to union or agency grievances filed under provisions of negotiated grievance procedures and employee grievances filed under the provisions of administrative grievance procedures; such grievances may relate to adverse actions, performance-based actions and other personnel matters, and include the decisions of third parties where applicable. The system also includes records relating to discrimination complaint procedures, including decisions of appropriate third parties where applicable.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 7701 and 7702; 5 U.S.C. Ch. 75; and 5 U.S.C. Ch. 71. Executive

Orders 11491, 11616, 11636, 11838, 11901, 12027, 12107; 29 CFR 1613; negotiated agreements between the United States Mint and exclusively recognized labor unions.

**PURPOSE(S):**

The purpose of this system is to permit the United States Mint to: support actions fall under Title 5, United States Code (U.S.C.), Chapter 43; track and maintain discrimination complaints; and enforce judgments ordered, and to maintain historical reference to ensure consistency of all personnel actions that may be subject to third party review.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to disclose information to:

(1) Appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license;

(2) A Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit;

(3) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court-ordered subpoena, or in connection with criminal law proceedings;

(4) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(5) The news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings;

(6) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114;

(7) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(8) To appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has



been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper documents and electronic records.

**RETRIEVABILITY:**

These records are filed by the names of the individuals on whom they are maintained or by the subject of the action.

**SAFEGUARDS:**

Access to and use of these records are limited to those agency officials whose official duties require such access.

**RETENTION AND DISPOSAL:**

Retained in accordance with the United States Mint Records Control

Schedules; are destroyed in accordance with National Archives and Records Administration rules and regulations.

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) Assistant Director for Human Resources, United States Mint, Department of the Treasury, 801 9th Street, NW., Washington, DC 20220.

(2) Human Resources Officer, United States Mint, 151 North Independence Mall East, Philadelphia, PA 19106.

(3) Human Resources Officer, United States Mint, 320 West Colfax Avenue, Denver, CO 80204.

(4) Human Resources Officer, United States Mint, 155 Hermann Street, San Francisco, CA 94102.

(5) Human Resources Officer, United States Mint, West Point, NY 10996.

**NOTIFICATION PROCEDURE:**

Individuals who have filed a grievance, appeal, or complaint about a decision or determination made by an agency or about conditions existing in an agency already have been provided a copy of the record. The contest, amendment, or correction of a record is permitted during the prosecution of the action to whom the record pertains. However, after a case has been closed requests from individuals wishing to be notified if they are named in this system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the

head of the organizational unit having immediate custody of the records (See "System Manager(s)" above).

Inquiries may be made in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix H. Inquiries should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street, NW., Washington, DC 20220.

The individual must submit a written request with information sufficient to verify the identity of the requester such as full name, date of birth, a brief description of the grievance and the approximate date of submission.

**RECORD ACCESS PROCEDURES:**

See "Notification Procedure" above.

**CONTESTING RECORD PROCEDURES:**

See "Notification Procedure" above.

**RECORD SOURCE CATEGORIES:**

The sources of these records are as follows: (a) Individual to whom the record pertains; (b) Agency officials; (c) Affidavits or statements from employee(s); (d) Testimonies of witnesses; (e) Official documents and correspondence relating to the grievance.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. E8-16742 Filed 7-21-08; 8:45 am]

**BILLING CODE 4810-37-P**

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Vol. 73, No. 141

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## FEDERAL REGISTER PAGES AND DATE, JULY

37351-37774.....	1
37775-38108.....	2
38109-38306.....	3
38307-38882.....	7
38883-39212.....	8
39213-39568.....	9
39569-39856.....	10
39857-40166.....	11
40167-40452.....	14
40453-40714.....	15
40715-40938.....	16
40939-41234.....	17
41235-42256.....	18
42257-42516.....	21
42517-42670.....	22

## CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 3 CFR

#### Proclamations:

8272.....38297

(Proc. 7912 of 6/29/

2005 See: Proc.

8272).....38297

(Proc. 8213 of 12/20/

2007 See: Proc.

8272).....38297

(Proc. 8240 of 4/17/

2008 See: Proc.

8272).....38297

8273.....41233

#### Executive Orders:

13467.....38103

EO 10450 of 4/27/1953

(see: EO 13467).....38103

EO 10577 of 11/23/

1954 (see: EO

13467).....38103

EO 10865 of 2/20/1960

(see: EO 13467).....38103

EO 12171 of 11/19/

1979 (Amended by:

EO 13467).....38103

EO 12333 of 12/4/1981

(see: EO 13467).....38103

EO 12829 of 1/6/1993

(see: EO 13467).....38103

EO 12958 of 4/17/1995

(see: EO 13467).....38103

EO 12968 of 8/2/1995

(Amended by: EO

13467).....38103

EO 13381 of 6/27/2005

(Revoked by: EO

13467).....38103

#### Administrative Orders:

##### Memorandums:

Memorandum of June

26, 2008.....37351

##### Notices:

Notice of July 16, 2008

(See: EO 13348 of

7/22/04).....42255

### 5 CFR

532.....39213

930.....41235

### 7 CFR

301.....37775

989.....38307, 42257

1216.....39214

#### Proposed Rules:

205.....40194, 40197

253.....38155

983.....41298

989.....41302

### 9 CFR

390.....40939

#### Proposed Rules:

71.....38343

94.....37892

### 10 CFR

#### Proposed Rules:

71.....40767

430.....38159

431.....40770

### 12 CFR

229.....41236

575.....39216

360.....41170, 41180

613.....42517

1750.....40658

### 13 CFR

121.....41237, 42517

123.....41237

### 14 CFR

25.....42444

26.....42444

39.....37353, 37355, 37358,

37775, 37778, 37781, 37783,

37786, 37789, 37791, 37793,

37795, 38311, 38883, 38885,

38887, 38889, 38891, 38893,

38895, 38898, 38900, 38905,

39569, 39570, 39572, 39574,

39577, 39579, 39580, 39583,

40715, 40948, 40951, 40953,

40955, 40958, 40960, 40962,

42259

71.....37797, 38109, 38313,

38314, 39220, 39221, 40719,

40720, 40721, 41254, 41255,

42262, 42263

97.....37360, 40167, 40169,

42520

121.....42444

125.....42444

129.....42444

#### Proposed Rules:

39.....37898, 37900, 37903,

38160, 38346, 38933, 38935,

38937, 39627, 39628, 41305,

42282

71.....37905, 42284

### 15 CFR

336.....39585

745.....38908

774.....38908

902.....39587

### 16 CFR

305.....39221

306.....40154

455.....42285

#### Proposed Rules:

305.....40988

**17 CFR**

30.....39226  
200.....40144  
210.....38094  
228.....38094  
229.....38094  
241.....40144  
249.....38094

**Proposed Rules:**

210.....39526  
229.....39526, 40106  
230.....37752, 40106  
239.....40106  
240.....37752, 39182, 40088,  
40106  
242.....40088, 40201  
249.....39526, 40088  
270.....40124  
275.....40124

**18 CFR**

37.....39092

**19 CFR**

0.....40722  
7.....40722  
12.....40722  
18.....40722  
24.....40722  
101.....40722  
103.....40722  
115.....40722  
123.....40722  
134.....40722  
141.....40722  
177.....40722  
181.....40722  
201.....38316  
210.....38316

**Proposed Rules:**

207.....40992

**20 CFR**

404.....40965

**Proposed Rules:**

404.....40997  
416.....40997

**21 CFR**

210.....40453  
312.....39588  
314.....39588  
530.....38110  
600.....39588  
601.....39588  
892.....40967  
1310.....39611

**Proposed Rules:**

1300.....40451  
1304.....40451  
1306.....40451  
1311.....40451

**22 CFR**

7.....41256  
50.....41256  
122.....41258

**Proposed Rules:**

304.....39270

**25 CFR**

11.....39857

**Proposed Rules:**

293.....37907

**26 CFR**

1.....37362, 37797, 38113,  
38910, 39227, 39614, 40171,  
40727, 41259, 42294, 42522  
20.....40173, 42294  
25.....37362, 42294  
26.....37362, 42294  
31.....37371, 42294  
40.....42294  
41.....42294  
44.....42294  
53.....37362, 42294  
54.....42294  
55.....37362, 42294  
56.....42294  
156.....37362, 42294  
157.....37362, 42294  
301.....37362, 37804, 38915,  
40738, 40739, 42294  
602.....37371, 39227

**Proposed Rules:**

1.....37389, 37910, 38162,  
38940, 39270, 39630, 40792,  
40793, 40914, 40999, 42538  
20.....40914  
25.....40914  
26.....37910, 40914  
31.....40914  
40.....40914  
41.....40914  
44.....40914  
53.....40914  
54.....40793, 40914  
55.....40914  
56.....40914  
156.....40914  
157.....40914  
301.....37910, 40471, 40799,  
40914

**27 CFR**

7.....41259  
16.....41259  
25.....41259

**Proposed Rules:**

9.....40474

**28 CFR**

0.....40463  
524.....39863  
545.....39864

**Proposed Rules:**

32.....39632

**29 CFR**

1615.....39866  
4003.....38117  
4022.....40464  
4044.....40464  
**Proposed Rules:**  
4001.....37390  
4022.....37390  
4044.....37390

**30 CFR**

938.....38918  
**Proposed Rules:**  
250.....39376  
285.....39376  
290.....39376  
948.....38941

**31 CFR**

Ch. V.....37536

**32 CFR**

706.....38921  
**Proposed Rules:**  
199.....38348  
726.....38350

**33 CFR**

100.....39233, 39235, 41261,  
42526  
105.....40739  
110.....38922, 38924  
117.....37806, 37809  
165.....37809, 37810, 37813,  
37815, 37818, 37820, 37822,  
37824, 37827, 37829, 37833,  
37835, 38120, 39868, 40740,  
40742, 42526  
334.....41264

**Proposed Rules:**

110.....40800  
165.....38951

**34 CFR****Proposed Rules:**

674.....37694  
682.....37694  
685.....37694

**36 CFR**

242.....40179

**Proposed Rules:**

2.....39272  
7.....38954  
262.....41003  
1190.....40802  
1191.....40802  
1195.....38352, 38353

**37 CFR**

201.....37838  
202.....37838  
203.....37838  
204.....37838  
205.....37838  
211.....37838

**Proposed Rules:**

1.....38027  
201.....40203, 40807  
255.....40807

**38 CFR**

3.....40465  
19.....40745  
20.....40745

**Proposed Rules:**

21.....37402

**39 CFR**

3020.....41265

**Proposed Rules:**

111.....39272, 39273

**40 CFR**

50.....39235  
51.....39235  
52.....37840, 37841, 37843,  
37844, 38122, 38124, 38328,  
39237, 40748, 40750, 40752,  
40754, 40970, 40972, 41268,  
41271, 41272, 41274, 41275,  
41277, 42263  
53.....39235  
58.....39235  
62.....38925  
63.....37728, 39871, 40977,

42529  
81.....38124  
86.....38293  
174.....37846, 40756, 40760  
180.....37850, 37852, 39240,  
39247, 39251, 39256, 39261,  
39264, 41283

261.....37858  
266.....37858  
300.....40467, 42533

**Proposed Rules:**

50.....42294  
51.....42294  
52.....38163, 38353, 39275,  
39897, 39900, 39911, 40203,  
40228, 40813, 41007  
55.....38356  
59.....40230  
62.....38954  
81.....40813  
271.....40263  
300.....42539

**42 CFR**

1008.....40982

**Proposed Rules:**

405.....38502  
409.....38502  
410.....38502, 41416  
411.....38502  
414.....38502  
415.....38502  
419.....41416  
424.....38502  
485.....38502  
486.....38502

**43 CFR****Proposed Rules:**

415.....40916  
429.....42236

**44 CFR**

65.....40180, 42265  
67.....38132, 42266  
64.....40468

**Proposed Rules:**

67.....40266

**45 CFR**

302.....42416  
303.....42416  
304.....42416  
305.....42416  
308.....42416

**47 CFR**

1.....37861, 37869  
32.....37882  
36.....37882  
43.....37861, 37869  
52.....41286  
54.....37882, 42273  
64.....38928, 40183, 41286  
73.....38138, 38139, 38331,  
39269, 39623, 40186

**Proposed Rules:**

1.....37911  
27.....38955, 40271  
43.....37911  
52.....41307  
64.....41307  
73.....38361, 40272, 40273  
74.....40271  
78.....40271

90.....40274	<b>49 CFR</b>	536.....37922	660.....42536
101.....40271	172.....40914	537.....37922	665.....41296
	262.....39875	541.....40276	679.....38931, 39626, 40193,
<b>48 CFR</b>	571.....38331	571.....38372, 42309	40764, 40765, 40766
204.....42274	594.....39890		<b>Proposed Rules:</b>
235.....42274	<b>Proposed Rules:</b>	<b>50 CFR</b>	17.....38956, 39639, 41007
252.....42274	171.....38361	13.....42279	23.....41022
<b>Proposed Rules:</b>	173.....38164, 38361	17.....39506, 39790	27.....39272
202.....42300	177.....38164	23.....40983	216.....39915
212.....42300	178.....38361	100.....40179	300.....39915
225.....42300	214.....41214	600.....40658	404.....38375
252.....42300	523.....37922	622.....38139	622.....38387, 40824
516.....39275	531.....37922	635.....38144, 40658	648.....39643
552.....39275	533.....37922	648.....37382, 38340, 39587,	660.....39625, 39930
	534.....37922	39624, 40186, 40986	665.....42540

**REMINDERS**

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

**RULES GOING INTO EFFECT JULY 22, 2008****ENVIRONMENTAL PROTECTION AGENCY**

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline); published 4-23-08

National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing; published 7-22-08

**HOMELAND SECURITY DEPARTMENT****Coast Guard**

Safety Zone:

100th Anniversary Chicago to Mackinac Race Fireworks, Lake Huron, Mackinac Island, MI; published 7-16-08

Safety Zones:

Festival of Sail San Francisco, San Francisco, CA; published 7-22-08

**TRANSPORTATION DEPARTMENT****Federal Aviation Administration**

Airworthiness Directives:

Lockheed Model 382 Series Airplanes; published 7-7-08

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments; published 7-22-08

**TREASURY DEPARTMENT****Internal Revenue Service**

Farmer and Fisherman Income Averaging; published 7-22-08

**COMMENTS DUE NEXT WEEK****AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

National Poultry Improvement Plan and Auxiliary Provisions; comments due by 7-28-08; published 5-28-08 [FR E8-11739]

**COMMERCE DEPARTMENT**  
**National Oceanic and Atmospheric Administration**

Fisheries of the Exclusive Economic Zone Off Alaska:

Greenland Turbot in the Bering Sea and Aleutian Islands Management Area; comments due by 7-28-08; published 7-14-08 [FR E8-15987]

Groundfish Fisheries in the Gulf of Alaska; comments due by 7-28-08; published 5-29-08 [FR E8-12010]

Fisheries of the Exclusive

Economic Zone off Alaska:

Northern Rockfish in the Gulf of Alaska; comments due by 7-28-08; published 7-16-08 [FR 08-01436]

Pacific Ocean Perch in the Gulf of Alaska; comments due by 7-28-08; published 7-16-08 [FR 08-01437]

**EDUCATION DEPARTMENT**

Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities; comments due by 7-28-08; published 5-13-08 [FR E8-10522]

**ENERGY DEPARTMENT**

Energy Efficiency Program for Consumer Products:

Residential Central Air Conditioners and Heat Pumps; comments due by 7-31-08; published 7-3-08 [FR E8-15142]

**ENVIRONMENTAL PROTECTION AGENCY**

Approval and Promulgation of Air Quality Implementation Plans:

Virginia; comments due by 7-28-08; published 6-27-08 [FR E8-14625]

Approval and Promulgation of State Implementation Plans; Washington:

Vancouver Air Quality Maintenance Area; Second 10-Year Carbon Monoxide Maintenance Plan; comments due by 7-28-08; published 6-27-08 [FR E8-14518]

Approval and Promulgation of State Implementation Plans:

Washington; Air Quality Maintenance Area; Second 10-Year Carbon Monoxide Maintenance Plan; comments due by 7-28-08; published 6-27-08 [FR E8-14519]

Approval, Disapproval, and Promulgation of Air Quality Implementation Plans:

Kraft Pulp Mill Rule; Montana; comments due by 7-28-08; published 6-27-08 [FR E8-14622]

Environmental Statements; Notice of Intent:

Coastal Nonpoint Pollution Control Programs; States and Territories—

Florida and South Carolina; Open for comments until further notice; published 2-11-08 [FR 08-00596]

**FEDERAL COMMUNICATIONS COMMISSION**

Promoting Diversification of Ownership in the Broadcasting Services; Order Granting Request for Extension of Time; comments due by 7-30-08; published 6-30-08 [FR E8-14785]

**HEALTH AND HUMAN SERVICES DEPARTMENT****Food and Drug Administration**

Dental Devices:

Classification of Encapsulated Amalgam Alloy and Dental Mercury and Reclassification of Dental Mercury; Issuance of Special Controls for Amalgam Alloy; comments due by 7-28-08; published 4-28-08 [FR 08-01187]

**HEALTH AND HUMAN SERVICES DEPARTMENT**

Office of Global Health Affairs; Regulation on the Organizational Integrity of Entities Implementing Leadership Act Programs and Activities; comments due by 7-28-08; published 6-26-08 [FR E8-14609]

**HOMELAND SECURITY DEPARTMENT****U.S. Customs and Border Protection**

Customs Broker License Examination Individual Eligibility Requirements; comments due by 7-28-08; published 5-27-08 [FR E8-11732]

**HOMELAND SECURITY DEPARTMENT****Coast Guard**

Commercial Fishing Industry Vessels; comments due by 7-29-08; published 3-31-08 [FR E8-06477]

Security Zones:

Escorted Vessels, Savannah, Georgia, Captain of the Port Zone; comments due by 8-1-08; published 7-2-08 [FR E8-14955]

**INTERIOR DEPARTMENT****Fish and Wildlife Service**

Endangered and Threatened Wildlife and Plants:

90-Day Finding on a Petition to List the Cactus Ferruginous Pygmy-Owl as Threatened or Endangered With Critical Habitat; comments due by 8-1-08; published 6-2-08 [FR E8-12168]

**LIBRARY OF CONGRESS****Copyright Office, Library of Congress**

Retransmission of Digital Broadcast Signals Pursuant to the Cable Statutory License; comments due by 7-31-08; published 7-14-08 [FR E8-15951]

**NATIONAL CREDIT UNION ADMINISTRATION**

Incidental Powers; comments due by 7-28-08; published 5-29-08 [FR E8-11927]

**SECURITIES AND EXCHANGE COMMISSION**

Interactive Data for Mutual Fund Risk/Return Summary; comments due by 8-1-08; published 6-23-08 [FR E8-13356]

Interactive Data to Improve Financial Reporting; comments due by 8-1-08; published 6-10-08 [FR E8-12596]

**TRANSPORTATION DEPARTMENT****Federal Aviation Administration**

Airworthiness Directives:

Avions Marcel Dassault-Breguet Model Falcon 10 Airplanes; comments due by 7-28-08; published 6-27-08 [FR E8-14575]

Bombardier Model DHC-8-400, DHC-8-401, and DHC-8-402 Airplanes; comments due by 8-1-08; published 7-2-08 [FR E8-14964]

Dornier Model 328-100 and -300 Airplanes; comments due by 7-28-08; published 5-29-08 [FR E8-11468]

Dowty Propellers Models R354/4 123 F/13, et al.; comments due by 7-30-08; published 6-30-08 [FR E8-14715]

Fokker Model F.28 Mark 0070 and 0100 Airplanes; comments due by 8-1-08; published 7-2-08 [FR E8-14969]

Fokker Model F.28 Mark 0070 and Mark 0100 Airplanes; comments due by 8-1-08; published 7-2-08 [FR E8-14976]

Rolls-Royce plc (RR) RB211 Trent 500 Series Turbofan Engines; comments due

by 7-29-08; published 5-30-08 [FR E8-11946]  
Proposed Establishment of Class E Airspace; Weiser, ID; comments due by 7-31-08; published 6-16-08 [FR E8-13514]

#### **TRANSPORTATION DEPARTMENT**

##### **Federal Highway Administration**

National Standards for Traffic Control Devices:

Uniform Traffic Control

Devices for Streets and Highways Manual;

Revision; comments due by 7-31-08; published 1-2-08 [FR E7-24863]

#### **TRANSPORTATION DEPARTMENT**

##### **Federal Motor Carrier Safety Administration**

Medical Certification

Requirements as Part of the Commercial Driver's License:

Availability of Supplemental Document; comments due

by 7-28-08; published 6-27-08 [FR E8-14608]

#### **TREASURY DEPARTMENT Internal Revenue Service**

Suspension of Running of Period of Limitations During a Proceeding to Enforce or Quash a Designated or Related Summons; comments due by 7-28-08; published 4-28-08 [FR E8-09147]

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#### **LIST OF PUBLIC LAWS**

---

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws.html>.

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**Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.gpoaccess.gov/plaws/index.html>. Some laws may not yet be available.

#### **H.R. 634/P.L. 110-277**

American Veterans Disabled for Life Commemorative Coin Act (July 17, 2008; 122 Stat. 2599)

#### **H.R. 814/P.L. 110-278**

Children's Gasoline Burn Prevention Act (July 17, 2008; 122 Stat. 2602)

#### **S. 2967/P.L. 110-279**

To provide for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after operations of

the Senate Restaurants are contracted to be performed by a private business concern, and for other purposes. (July 17, 2008; 122 Stat. 2604)

**Last List July 17, 2008**

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